

ARTICLE 19

Myanmar: *Amended* Right to Peaceful Assembly and Peaceful Procession Law

August 2014

Legal analysis

Introduction¹

On 24 June 2014, following months of campaigning by activists across the country, the Pyi Htaung Su Hluttaw (the Myanmar Parliament) passed amendments to the Right to Peaceful Assembly and Peaceful Procession Law (the Law).² Members of Parliament should be congratulated on their concerted effort to reform the Law in accordance with the desire of the people of Myanmar.

Unfortunately, ARTICLE 19 is concerned that while the intention of many lawmakers involved was to move from a system of prior-authorisation to notification as well as reduce the punishments provided for in the law, instead the reforms introduce greater ambiguity to the legislation and do not bring it into compliance with international human rights law.

International standards are clear that States have a positive obligation to exercise a presumption in favour of holding assemblies as a fundamental right.³ This right should be guaranteed to all people without discrimination,⁴ including discrimination on the basis of nationality or citizenship status.⁵ Any restriction to the rights to freedom of expression, association and peaceful assembly should pass the scrutiny of the three-part test, i.e. it must be provided for by law, pursue a legitimate aim,⁶ and be necessary and proportionate.⁷

Myanmar has neither signed nor ratified the principal human rights treaties, including the International Covenant on Civil and Political Rights. Nevertheless, ARTICLE 19 suggests that as Article 364 of the Constitution of Myanmar allows for broad interpretation in terms of its guarantees of the rights to freedom of expression and freedom of assembly, international standards regarding these rights provide helpful guidance for interpretation.

Following the amendments, the Law still fails to comply with international human rights standards.

Prior authorisation for assemblies

The amendments to the Law remove the power of the police authorities to “reject” permission requests for assemblies.⁸ They also remove requirements for the authorities to communicate rejection decisions, along with provisions regarding administrative appeals against such decisions.⁹

Although these reforms may be well intentioned, they do not fully dismantle the system of prior authorisation imposed by the Law, and fail to bring it into compliance with international standards.

The Special Rapporteur on the rights to freedom of peaceful assembly and of association has stressed that States should not impose prior authorisation requirements, but should, at the most, only require advance notice of assemblies.¹⁰ While prior notification procedures are restrictive, they may be compatible with the right to freedom of peaceful assembly in so far as they allow the State to plan to adequately facilitate assemblies and protect public order, public safety or the rights of others.¹¹

ARTICLE 19 highlights the following concerns with the permission system in the Law as amended:

- The amendments do not create a system of notification in the Law, but instead leave a prior authorisation regime of undetermined scope intact. Article 5 of the Law now requires a police authority to grant approval for assemblies only where a request is made in accordance with the criteria for approval. This ambiguous qualification does not comply with the requirement of legality as set out in the three-part test, since it does not specify the approval criteria. Additionally, the Law does not set out the duties of the police authorities should the criteria not be met.
- In seeking permission, Article 4 of the Law still requires assembly organisers to provide police authorities with the “purpose” and “topic” of the proposed assembly, and the “chants” that will be used during it. International standards are clear that it is not necessary for law enforcement authorities to know in advance the subject matter of an assembly, or the opinions or ideas that will be disseminated at that assembly, as this could lead to illegitimate content-based regulation of assemblies.¹²
- Following the amendments, it is unclear whether police authorities may still consider the content of proposed assemblies when determining whether the “criteria to get permission” have been met. Article 8 (f) of the Law (as amended) requires police authorities to specify, when granting permission, the “matter permitted to express and words permitted to speak out”, implying that prior control of the content of assemblies has been retained. This could allow police authorities broad discretion in prescribing which types of expression are “allowed” when granting permission, and could effectively prohibit the expression of ideas or opinions which are not “allowed”. Given the broad range of content restrictions retained in Articles 10 – 12 of the Law (analysed below), the police authorities are likely to continue to interpret their prior authorisation powers expansively.
- ARTICLE 19 also remains concerned that Article 4 of the Law requires organisers of assemblies to seek authorisation five days before the assembly. This should be replaced with a notification period of no more than 48 hours.¹³ In many countries, notification is only considered necessary for assemblies with a large number of participants since small assemblies do not raise significant public order or safety concerns.¹⁴
- There is no provision in the Law for spontaneous assemblies, which should be exempt from prior notification requirements.¹⁵ The need for individuals to be able to respond urgently and with a degree of spontaneity to trigger events must be acceptable in any democratic society.¹⁶ In particular, the UN Special Rapporteur emphasised to the UN General Assembly in October 2013 that exemptions for spontaneous assemblies are especially important where elections are concerned.¹⁷

In the light of these outstanding problems, the removal from the Law of the police authorities’ duty to communicate decisions about not granting consent to assemble is problematic. Any restrictions on assemblies, including additional conditions, should be communicated promptly to the organisers, and should include the reasons for the restrictions. These reasons must also pass the scrutiny of the three-part test.

Likewise, the removal of the right to administratively appeal against refusals to grant assemblies is problematic, since the authorities may still impose prior restrictions on assemblies and possibly

deny permission entirely. An expedited right of administrative review, also removed by the amendments to the Law, should therefore be reinstated to ensure the right to an effective remedy. This should be supplemented by a right of appeal against any administrative body's decision, which should be heard by an independent court. The decisions of any administrative body or court must be transparent and publicly accessible.¹⁸

Criminal penalties

It is positive that the amendments to the Law halve the length of custodial penalties for criminal offences. However, they do not reduce fines or change the essential elements of those offences.

ARTICLE 19 finds that all these offences continue to violate the rights to freedom of expression, peaceful assembly and association:

- Article 17 of the Law makes it a criminal offence to “disturb, destroy, obstruct, annoy, assault, bully, or harm” the attendees of a peaceful assembly, providing for up to one year imprisonment and/or a fine of 50,000 Kyat. The terms “disturb” and “annoy” may be used to prohibit and impose sanctions for peaceful counter-demonstrations. The potential for public order disturbances as a result of counter-demonstrations should not be the basis for prohibiting or imposing criminal responsibility upon those exercising their right to freedom of peaceful assembly.¹⁹ Less restrictive measures, such as the deployment of additional law enforcement officers, should therefore be considered instead.²⁰ Criminal laws of general application should be sufficient for dealing with violent individuals opposed to assemblies, and it is therefore not necessary to address these offences in the present Law.
- Article 18 of the Law makes it a criminal offence to conduct a peaceful assembly without permission, providing for up to six months imprisonment and/or a fine of up to 30,000 Kyat. However, ARTICLE 19 points out that international standards are clear that a failure to notify the authorities of an assembly should not be the basis for dispersing a peaceful assembly or for assigning criminal liability, yet alone imposing custodial sentences.²¹ Instead, the Law should protect the right of all people to engage in spontaneous protests by exempting them from notification requirements.²²
- Article 19 of the Law provides that a person may face up to 3 months imprisonment and a fine of 10,000 Kyat for engaging in conduct prohibited in Articles 10 – 12 of the Law and unspecified “local rules”. These provisions are problematic for a number of reasons:
 - Article 12 contains a raft of illegitimate content restrictions for assemblies, including, inter alia, the “reciting or shouting of chants” that have not been given prior authorisation by police authorities, spreading “rumours or incorrect information”, or “saying things or to behave in a way that could affect the country or the Union, race, or religion, human dignity and moral principles.”
 - Content restrictions for assemblies included in Article 12 are impermissibly vague, granting the authorities unfettered discretion to arrest and imprison participants in assemblies which the State does not approve of. International standards are clear that the right to freedom of peaceful assembly extends to the expression of ideas that may be considered controversial or that are “not necessarily favourably received by the government or the majority of the population”²³ or that “may annoy or give offence to

persons opposed to the ideas or claims that it is seeking to promote.”²⁴ It is not necessary in a democratic society for law enforcement authorities to police the content of assemblies.

- Articles 10 and 11 of the Law also assign criminal liability to participants in peaceful assemblies if those assemblies take place in an alternative location, or diverge from the route specified in the permission. Failing to comply with the requirements of authorisation where an assembly remains peaceful should not be the basis for criminal liability.²⁵

Dispersal of assemblies

Article 12(k) of the Law, as amended, allows for the revocation of permission and the dispersal of assemblies if any of the provisions in Article 12 are violated. This includes the terms of the permission granted or supplementary orders (subparagraphs i – j), or any of the broad content, manner and place restrictions (subparagraphs a – h) not being obeyed.

As identified above, failure to adhere to the terms of notification or authorisation, or violations of content restrictions relating to peaceful assemblies and legitimate expression, cannot be a basis for dispersal under international law. It has been noted that where the right to freedom of peaceful assembly is suppressed, those demonstrations that do occur are more likely to become violent.²⁶

The dispersal of any assembly should only ever be used as a last resort and in exceptional circumstances; force should never be used against a peaceful assembly even if it is technically unlawful.²⁷ Dispersal should only be used if there is an imminent threat of violence, and where more proportionate measures such as the use of negotiation or mediation have already been exhausted.²⁸ Governments must also develop a range of response methods that enable a differentiated and proportionate use of force, for example by ensuring that law enforcement authorities are equipped with self-defence equipment and less-lethal incapacitating weapons.²⁹

Recommendations

ARTICLE 19 reiterates its call on the Myanmar government to ratify the International Covenant on Civil and Political Rights (ICCPR) without delay.

ARTICLE 19 recommends that the Myanmar Parliament should initiate further reforms in order to bring the Law into compliance with international standards. It should:

- Establish a presumption in favour of the rights to freedom of expression, association and peaceful assembly, and an obligation on the State to facilitate and protect the exercise of those rights for all people without discrimination, including discrimination on the basis of nationality or citizenship status

- Make clear that any restriction to the rights to freedom of expression, peaceful assembly or association must comply with the three-part test and be (i) provided for by law, (ii) pursue a legitimate aim and (iii) be necessary and proportionate
- Remove the requirement to request “permission” in advance of an assembly and replace this with a requirement of notification, with a notice-period that is no greater than 48 hours
- Remove the requirement for organisers of an assembly to specify in advance the purpose of the assembly, the chants, or the content of its messages, only requiring notice of information that is essential for the authorities to facilitate the assembly and protect public order, public safety or the rights of others
- Remove the authorities’ power to prescribe which slogans or chants are permissible
- Provide that spontaneous assemblies are exempt from prior notification requirements, including those where organisers are unable to comply with the requisite notification requirements or where there is no existing or identifiable organiser
- Reinstating an obligation for law enforcement authorities to promptly communicate with the organisers, in writing and with reasons, when placing conditions or any other restrictions on an assembly
- Allow for the administrative review of any decision regarding restrictions to an assembly, including the right to appeal to an independent court
- Amend Articles 10 - 12 of the Law to ensure that any restrictions to the content, time, place or manner of an assembly are sufficiently precise; and repeal provisions that allow restrictions to assemblies considered controversial or offensive, or where the government does not agree with the ideas or claims being promoted
- Repeal Article 17 of the Law, and provide processes for the authorities to take specific measures to facilitate more than one assembly in one location, including counter-demonstrations that may be spontaneous
- Repeal Article 18 of the Law, removing criminal liability for organising or participating in an unauthorised assembly or any assembly where notice has not been provided
- Reform Article 19 of the Law, removing criminal liability for offences that do not comply with international standards
- Amend Article 12(k) to clarify that a peaceful assembly must never be dispersed, even if it is unlawful
- Establish in the Law that dispersal, including dispersal by force, is a last resort that can only be used in response to an imminent threat of violence, in accordance with the principles of necessity and proportionality; detailed guidance must be provided to law enforcement authorities based on these principles and international standards.

Annex 1: The Law Amending the Law on the Right to Peaceful Assembly and Peaceful Procession

Pyidaungsu Hluttaw Law No. 26/2014, 24th June 2014

1. This law shall be called the Law Amending the Law on the Right to Peaceful Assembly and Peaceful Procession.
2. The terms “permit and permission” shall be replaced with the term “consent” in the Law on the Right to Peaceful Assembly and Peaceful Procession.
3. The term “biographies of the leader and the speaker” from section 4 (c) of the Law on the Right to Peaceful Assembly and Peaceful Procession shall be replaced with the term “name and complete address of the leader and speaker”.
4. In Chapter (4) of the Law on the Right to Peaceful Assembly and Peaceful Procession:
 - a. The term “and Denial” shall be omitted from the title.
 - b. Section 5 shall be amended in the following way:

“5. When the Chief of the Township Police Force receives an application from a citizen or citizens, or an organization, submitted in accordance with the rules for consent, the consent shall be issued.”
 - c. The term “or denial of permission” from section 6 shall be omitted.
 - d. Section 7 (b) and section 9 shall be deleted.
 - e. Section 8 (f) shall be added after section 8 (e):

“(f) The topic at the assembly, and the chants that are allowed.”
5. Section 12 (k) of the Law on the Right to Peaceful Assembly and Peaceful Procession shall be amended in the following way:

“(k) If consent is revoked because any rule in section 12 is broken, they [the participants] shall not continue but disperse.”
6. The term, “a maximum sentence of two years’ imprisonment” from section 17 shall be replaced with the term, “maximum sentence of one year’s imprisonment”.
7. The term, “a maximum sentence of one year’s imprisonment” in section 18 shall be replaced with the term, “a maximum sentence of six months imprisonment”.
8. The term, “a maximum sentence of six months’ imprisonment” from section 18 shall be replaced with the term, “a maximum sentence of three months’ imprisonment”.

Annex 2: The Law on the Right to Peaceful Assembly and Peaceful Procession

The Republic of the Union of Myanmar
Pyidaungsu Hluttaw
The Right to Peaceful Assembly and Peaceful Procession Act
(The Pyidaungsu Hluttaw Law No. 15/2011)
7th day of the Waxing Moon of Nadaw in 1373
(2nd December 2011)

Introduction

In Article 354 Section (B) of the Union Republic of Myanmar Constitution Law, it is prescribed that if not contrary to the laws enacted for Union security, rule of law, community peace and tranquility, or public morality, every citizen shall be at liberty to assemble and hold a procession peacefully without arms. So that citizens can exercise these rights legally, Pyidaungsu Hluttaw has enacted this law.

Chapter (1) Terms and Definitions

1. This law shall be called the law of peaceful assembly and peaceful procession.
2. Words in this law shall have the following meanings:
 - (a) A citizen refers to a person who is born to parents both of whom are nationals of the Union Republic of Myanmar and is a legal citizen on the day the constitution is confirmed and enacted.
 - (b) A peaceful assembly refers to a peaceful gathering of more than one person, unarmed and following the rules, and giving speeches in permitted public places according to this law for the purpose of expressing their wishes and convictions.
 - (c) A peaceful procession refers to more than one person having a peaceful procession in an orderly fashion, unarmed and following the rules, on a permitted public road for the purpose of expressing their wishes and convictions.
 - (d) A permit refers to the permission given in accordance to this Act to allow a peaceful gathering or peaceful procession.
 - (e) A poster refers to an expression that does not harm the dignity of a person; it be in words, signs, images, photographs, paintings, cartoons, statues, television broadcast, or something expressed in any other way, and held in hand, placed in the ground, pasted on another item or some other way, for the purpose of expressing one's wishes and convictions.
 - (f) A sign refers to an expression that does not harm the dignity of a person; it includes the name of a party or an association or an organization in words, to be held in hand, placed in the ground, or hung or expressed in some other ways, for the purpose of expressing one's wishes and convictions.

(g) Arms refer to weapons and equipment, the definitions of which provided in Weapons and Explosives Act, as well as things that can be dangerous to another person.

(h) A flag refers to flags of the Union, official parties, and official associations and organizations.

Chapter (2) Purpose

3. The purpose of this Act is as follows:

- (a) For Union security, rule of law, community peace and tranquility, or public morality;
- (b) For the citizens, as defined by the Union Republic of Myanmar Constitution, to be able to systematically exercise their basic right to peaceful assembly and peaceful procession and to provide them with legal protection;
- (c) To protect the public from harassment, danger, harm, and obstruction from those who are exercising their right to peaceful assembly and peaceful procession.

Chapter (3) Applying for Permission

4. The citizens or organizations that want to exercise the right to peaceful assembly and peaceful procession and express themselves must apply for the permission at least five days in advance by using the form, including the following information, to the Chief of the Township Police Force.

- (a) Purpose of the peaceful assembly, the site, the date and time, the topic at the assembly, and the chants;
- (b) Purpose of the peaceful procession, the route, the date and time, and the chants;
- (c) The person applying for the permit for peaceful assembly and peaceful procession, and biographies of the leader and the speaker;
- (d) The schedule of peaceful assembly or peaceful procession and approximate number of attendees;
- (e) If an organization is conducting the peaceful assembly or peaceful procession, record of that organization's decision or supporting document;
- (f) If permission is given, the agreement to abide by the rules in this Act as well as the permission.

Chapter (4) Issuance and Denial of Permission

5. When the Chief of the Township Police Force receives an application from a citizen or citizens, or an organization, submitted in accordance with the rules for permission, the permission can be issued or denied with approval from the Chief Administrator of the Township Department of General Administration from the township concerned. However, it cannot be denied when it is not in breach of the security of the State, rule of law, community's peace and tranquility, and public morality.

6. The permission or denial of permission must be reported by the Chief of Township Police Force to the Chief of the District Police Force and by the Chief Administrator of the Township Department of General Administration to the Chief Administrator of the District Department of General Administration promptly.

7. Chief of the Township Police Force concerned must do the following:

(a) If permission is granted, notify the applicant at least 48 hours in advance of the date and time for the peaceful assembly or peaceful procession;

(b) If permission is denied, notify the reason for denial at least 48 hours in advance of the date and time for the peaceful assembly or peaceful procession on the application.

8. The following information must be included in the permission:

(a) Date, place, and time of the peaceful assembly;

(b) Date, route, and time of the peaceful procession;

(c) Number of people given permission to participate in the peaceful assembly and peaceful procession;

(d) Name(s) and address(es) of the person or persons given permission to speak;

(e) Local rules.

9. Appeals to the denial of permission can be made in the following way:

(a) Appeals can be made to the Chief of the Region or State Police Force concerned within seven days of the receipt of the notification of denial.

(b) With approval from the Chief Administrator of the Department of Regional or State General Administration, Chief of the Region or State Police Force concerned must make a decision on the appeal, made in accordance with sub-section (a), within 14 days of its receipt.

(c) The decision made by Chief of the Region or State Police force, in accordance with subsection

(b) is final.

Chapter (5) Rules

10. A peaceful assembly is to be made only at the site assigned in the permission.

11. When having a peaceful procession, so as not to disturb the public, people are given permission to gather only at the assigned starting point of the route and to proceed peacefully along the assigned route.

12. Those who participate in a peaceful assembly and a peaceful procession must obey the following rules:

- (a) They must not talk or behave in a way to cause any disturbance or obstruction, annoyance, danger, or a concern that these might take place.
- (b) They must not behave in a way that could destroy the government, public, or private properties or pollute the environment.
- (c) They must not obstruct or disturb vehicles, pedestrians, and people.
- (d) They must not carry any weapons during a peaceful assembly and a peaceful procession.
- (e) They must not say things or behave in a way that could affect the country or the Union, race, or religion, human dignity and moral principals.
- (f) They must not spread rumors or incorrect information.
- (g) They can carry and display flags, posters, and signs during a peaceful assembly and a peaceful procession.
- (h) During a peaceful procession, they must not use loudspeakers other than the approved hand-held ones; they must not recite or shout chants other than the ones approved.
- (i) They must obey the supervision and enforcement of rules by the officials.
- (j) They must obey necessary notices, orders, and instructions issued.
- (k) If permission is revoked, they must not continue but disperse.

Chapter (6) Taking Action

13. A police officer with a rank of no less than a deputy is to give necessary protection to the attendees of a peaceful assembly and peaceful procession, conducted in accordance with the law, so that there can be no harassment, destruction, or obstruction.

14. A police officer no less than a deputy is to do the following:

- (a) Warn the leader of the peaceful assembly and peaceful procession of any breach to the rules in these Acts at the site.
- (b) Report to the Chief of Township Police Force when the warning in sub-section (a) is not heeded.

15. At the receipt of the report submitted according to Section 14 sub-section (b), the Chief of Township Police Force must immediately report it to the Chief Administrator of the Department of Township General Administration and get an approval and revoke either the permission for a peaceful assembly or a peaceful procession. The official must first make a verbal announcement of the revocation and give a written notice within 24 hours.

16. If the violation of the rules continues after the announcement of the revocation of the permit, the Chief of the Township Police Force must continue to take an action in accordance with the existing laws, bylaws, policies, and procedures.

Chapter (7) Crime and Punishment

17. If there is evidence that a person disturbs, destroys, obstructs, annoys, assaults, bullies, or harms the attendees of a peaceful assembly or a peaceful procession conducted in accordance with a given permission, he or she must receive a maximum sentence of two years imprisonment or a maximum fine of fifty thousand kyat or both.

18. If there is evidence that a person is guilty of conducting a peaceful assembly or a peaceful procession, he or she must receive a maximum sentence of one year imprisonment or a maximum fine of thirty thousand kyat or both.

19. If there is evidence that a person violates a rule in Section 8 Sub-section (e) or a rule in Sections 10, 11, and 12, that person must receive a maximum sentence of six months imprisonment or a fine of ten thousand kyat or both.

Chapter (8) General

20. The crime against which an action is taken by this law is considered a crime actionable by the police.

21. During a permitted peaceful assembly or a peaceful procession, if anyone breaches security of the country, rule of law, peace and tranquility of the community, and the laws prescribed to protect public morality, or hurt anyone else, action must be taken against these violations according to the existing laws.

22. When exercising their right to a peaceful procession and a peaceful expression of their wishes and opinions freely, each citizen must follow the provisions in this Act.

23. When a citizen or an organization with a permit no longer wants to conduct a peaceful assembly or a peaceful procession due to various reasons, they must report this to the Chief of Township Police Force within 24 hours.

24. When implementing the provisions in this Act, the Ministry of Home Affairs:

(a) Can issue bylaws or rules and regulations with approval from the Union Government;

(b) Can issue necessary announcements, orders, instructions, and procedures.

I sign this in accordance with the constitution.

Thein Sein
President of the Country
Union Republic of Myanmar

¹ This legal analysis is financed by the Government of Sweden. The Government of Sweden does not necessarily share the opinions here within expressed. ARTICLE 19 bears the sole responsibility for the content.

² The Amendment of Peaceful Assembly and Procession Law, (2014 Pyi Htaung Hluttaw Law No. 26), 24 June 2014

³ The Human Rights Committee (HR Committee) has found that a failure by the State to produce reasons for interfering with the right to freedom of peaceful assembly is a violation of the ICCPR. E.g. *Mecheslav Gryb v. Belarus*, communication No. 1316/2004 (2011); *Chebotareva v. Russia*, communication No. 1866/2009 (2012); *Belyazeka v. Belarus*, communication No. 1772/2008 (2012).

⁴ Article 7 of the Universal Declaration of Human Rights provides that “all are equal before the law and are entitled without any discrimination to equal protection of the law”

⁵ HR Committee, General Comment No. 15, the position of aliens under the Covenant, 11 April 1986

⁶ Legitimate aims under international national human rights law are: respect for the rights or reputations of others, the protection of national security or of public order, or the protection of public health or morals. The right to freedom of peaceful assembly may also be limited to protect public safety.

⁷ The Siracusa Principles on the Limitation and Derogation Provisions in the ICCPR, part I.A.2 and I.A.9, UN Commission on Human Rights, 28 September 1984, E/CN.4/1985/4.

⁸ The Amendments remove “rejection” from the title to Chapter 4 of the Law, and delete the clause on rejecting permission in Article 6.

⁹ Article 7(b) and Article 9 of the Law.

¹⁰ 2012 annual report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, *op. cit.*, para. 28.

¹¹ HR Committee, *Kivenmaa v. Finland*, Communication No. 412/1990, 31 March 1994. See also: OAS Int-AmCHR report on the Situation of Human Rights Defenders in the Americas, OEA/Ser.LV/II.124, para. 57.

¹² OSCE Guidelines on Freedom of Peaceful Assembly and of Association, 2nd Edition 2010, at para. 119.

¹³ 2012 annual report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, *op. cit.*, para. 28.

¹⁴ Articles 3 and 12 of Moldova’s Law on Public Assemblies only requires notification where there are more than 50 participants. The Polish Law on Assemblies only requires notification on assemblies of more than 15 people; the Croatia Law on Public Assemblies only requires notification on assemblies of more than 20 people. See the Report Monitoring of Freedom of Peaceful Assembly in Selected OSCE Participating States (2012). In other countries, such as the UK, notification is only required for processions and not for static assemblies, see UK Public Order Act, 7 November 1986, s.11.

¹⁵ Report of the special Rapporteur on the right to freedom of peaceful assembly and of association, A/HRC/23/39, 24 April 2013, at para. 51. See also, by way of comparison, European Court of Human Rights (ECtHR), *Bukta and others v. Hungary*, Application No. 25691/04 (2007).

¹⁶ *Ibid.*

¹⁷ Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, A/68/299, 7 August 2013, at para. 24.

¹⁸ Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, A/HRC/23/39, 24 April 2013, at para. 64.

¹⁹ See, by way of comparison: ECtHR, *Plattform “Ärzte für das Leben”*, *op. cit.*, paras 32 and 34.

²⁰ See, by way of comparison: ECtHR, *Barankevich v. Russia*, Application No. 10519/03, 26 July 2007, at para. 33: “mere existence of a risk is insufficient for banning [a peaceful assembly]: in making their assessment the authorities must produce concrete estimates of the potential scale of disturbance in order to evaluate the resources necessary for neutralising the threat of violent clashes.”

²¹ See, by way of comparison, ECtHR, *Bukta and others v. Hungary*, *op. cit.*, para. 36.

²² Report of the special Rapporteur on the rights to freedom of peaceful assembly and of association, A/HRC/23/39, 24 April 2013, at para. 51. See also, by way of comparison, ECtHR, *Bukta and others v. Hungary*, *op. cit.*

²³ HR Committee, *Viktor Korneenko et al v. Belarus*, Communication No. 1274/2004, at para. 7.3.

²⁴ See, by way of comparison: ECtHR, *Stankov & UMO Ilinden v. Bulgaria*, Application Nos. 29221/95 and 29225/95 (2001), para. 86. See also: ECtHR, *Hyde Park and Others v. Moldova*, Application No. 33482/06 (2009), para. 30: the prohibition on a protest on the basis that the claims of participants were “unwelcome and unfounded” was not compatible with Article 11 of the European Convention on Human Rights (ECHR).

²⁵ See, by way of comparison: ECtHR, *Bukta and others v. Hungary*, *op. cit.*, para. 36.

²⁶ Annual Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, A/HRC/17/28, 23 May 2011, para. 13.

²⁷ OSCE guidelines, at paras. 165 – 166. See also, OSCE Guidebook on Democratic Policing (2008), at para. 65 – 74.

²⁸ *Ibid.*, at Section A, Guidelines 5.5 – 5.6. See also, by way of comparison: ECtHR, *Kandzhov v. Bulgaria* (2008) at para. 73: “the applicant’s actions on 10 July 2000 were entirely peaceful, did not obstruct any passers-by and were hardly likely to provoke others to violence ... However, the authorities in Pleven chose to react vigorously and on the spot in order to silence the applicant and shield the Minister of Justice from any public expression of criticism.”

²⁹ See, by way of comparison: ECtHR, *Balçık and Others v. Turkey*, application no. 25/02, 29 November 2007, at para. 28.