



Freedom of assembly and association (Article 11)

Article 11 guarantees two rights to act collectively with others.

Freedom of assembly includes public or private meetings, marches, processions, demonstrations and sit-ins. The purpose may be political, religious or spiritual, social or another purpose; no limit has been imposed on purpose, but any assembly **must be peaceful**. Incidental violence will not mean an assembly forfeits protection unless it had a disruptive purpose.

Positive obligations: the State has a duty to protect those exercising their right of peaceful assembly from violence by counter-demonstrators.

Restrictions or bans on assemblies require justification under paragraph 2, which is in the common form, requiring restrictions to be (i) prescribed by law (ii) for a permitted purpose and (iii) necessary in a democratic society, proportionate and non-discriminatory. The permitted purposes are:

- ▶ national security or public safety;
- ▶ prevention of disorder or crime;
- ▶ protection of health or morals;
- ▶ protection of the rights and freedoms of others.

Authorities have substantial discretion in assessing whether a proposed assembly poses any risk of endangering public safety etc., which could justify interference, but the **presumption must be that a peaceful assembly be allowed**.

The authorities need to be careful that restrictions are **non-discriminatory**. The fact that organisers are an unpopular group of individuals is not a sufficient reason to prevent their assembly.

The key will usually be the **risk of violence**, intentional or not. Its presence may justify restrictions; its absence means restrictions are very unlikely to be justifiable.

Freedom of association is the right to associate with others to form bodies in which to pursue common objectives collectively. It specifically includes the right to form **trade unions** for the protection of members' interests. As well as trade unions, two sorts of associations of particular importance are **political parties** and **religious bodies**.

Bans or restrictions on **political parties** are hard to justify. The Court has stressed that a plurality of parties is important for a democratic society and will require convincing and compelling reasons for a ban.

With **religious groups**, Article 11 read with Article 9 creates an expectation that believers will be able to associate freely, without State intervention. As with political parties, there is a duty of neutrality and impartiality.



The complete toolkit: <http://echr-toolkit.coe.int>

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