

Ref: CommHR/MOF/sf 092-2025

Mr. Alexander DOBRINDT
Federal Minister of the Interior

Strasbourg, 6 June 2025

Dear Minister,

My mandate is to foster the effective observance of human rights in all member states of the Council of Europe. An important part of my work is to engage in dialogue with the governments and parliaments of member states, and to assist them in addressing possible shortcomings in their laws and practices.

I write in relation to measures taken by the German authorities that restrict freedom of expression and freedom of peaceful assembly of persons protesting in the context of the conflict in Gaza.

Freedom of peaceful assembly

It is my understanding that since February 2025, the Berlin authorities have imposed restrictions on the use of the Arabic language and cultural symbols in the context of the protests. In some cases, such as an assembly in Berlin on 15 May 2025, marches have been restricted to stationary gatherings. Furthermore, protestors were allegedly subject to intrusive surveillance, online or in person, and arbitrary police checks.

I am also concerned by reports of excessive use of force by police against protestors, including minors, sometimes leading to injuries. The use of force by law enforcement officials including during protests must comply with the principles of non-discrimination, legality, necessity and proportionality, and precaution. Incidents of excessive use of force need to be effectively investigated, those responsible should be sanctioned in an appropriate manner and victims should be informed about possible remedies. To facilitate accountability, law enforcement officials should always display a visible and easily recognisable form of identification during assemblies, which reportedly has not always been the case during some of the latest demonstrations.

I further have to observe that over a number of years protests on Nakba commemoration day, particularly in Berlin, have been suppressed. For instance, in 2024, protests were reportedly met with excessive use of force by the police, resulting in arrests and injuries among participants. Peaceful protestors were reportedly arrested, and criminal law provisions were applied to expressions of support for Palestine.

I draw your attention to the [Guidelines](#) on Peaceful Assembly prepared by the European Commission for Democracy through Law (Venice Commission) and the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR). They outline that content-based restrictions on assembly must be subject to the most serious scrutiny: freedom of peaceful assembly also protects demonstrations that may annoy or cause offence to persons opposed to the ideas or claims that it is seeking to promote. Any measures interfering with freedom of peaceful assembly and expression other than in cases of incitement to violence or rejection of democratic principles do a disservice to democracy and may even endanger it.

Freedom of expression

Restrictions on freedom of expression have also reportedly been identified in such contexts as universities, arts and culture institutions, and schools. Furthermore, allegedly there have been attempts to deport foreign nationals in relation to their participation in protests and other forms of expression regarding the conflict in Gaza.

I understand that restrictions have been justified on the basis that events, symbols, or other forms of expression “disrupt public order” or “disturb public peace”. The case-law of the European Court of Human Rights (the Court) establishes that freedom of expression “applies not only to ‘information’ and ‘ideas’ that are favourably received, regarded as inoffensive, or which leave one indifferent [...] - it implies pluralism, tolerance and openness, without which there is no ‘democratic society’”. In assessing the necessity of the interference, member states have little scope to impose restrictions on political speech or on debate on matters of public interest, unless the views expressed comprise incitements to violence, and must always carry out such an assessment case by case.

I observe that other justifications invoked for the restrictions on rights include the prevention of antisemitism. I note with concern reports indicating that the working definition of antisemitism of the International Holocaust Remembrance Alliance (IHRA) has been interpreted by some German authorities in ways which lead to the blanket classification of criticism of Israel as antisemitic. In that regard, I urge you to be vigilant that the IHRA working definition is not distorted, instrumentalised or misapplied to stifle freedom of expression and legitimate criticism, including of the state of Israel.

More generally, the Court’s case law and the Council of Europe standards and guidance on freedom of expression, hate speech and hate crime (among others, [Recommendation CM/Rec\(2022\)16 of the Committee of Ministers to member States on combating hate speech](#) and, [ECRI General Policy Recommendation N°15 on Combatting Hate Speech](#)), provide the necessary framework for calibrating restrictions which must respect the principles of legality, necessity, proportionality and non-discrimination.

In conclusion, I recall that member states have both an obligation to refrain from undue interference with human rights and also positive obligations to safeguard these rights by securing their effective enjoyment for everyone, at all levels of government. I therefore respectfully ask you to ensure the rights to freedom of expression and peaceful assembly for all and to refrain from measures that discriminate against persons based on their political or other opinion, religion or belief, ethnic origin, nationality or migration status.

I stand ready to continue our constructive dialogue on this and other human rights issues in Germany.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Michael O'Flaherty". The signature is fluid and cursive, with a long, sweeping underline that extends to the right.

Michael O'Flaherty