Human Rights Committee

Draft General comment No. 38

Article 22: right to freedom of association*

I. General remarks

1. The right to freedom of association is a fundamental right, indispensable to human dignity[1]. It enables individuals and communities to express themselves collectively and to participate in shaping their societies. The right to freedom of association is important in its own right, as it protects the ability of people to exercise individual and collective autonomy in solidarity with others. It serves as a means to defend common values , exchange ideas and pursue shared social, cultural and political objectives – including the protection of human rights. It also constitutes the very foundation of a system of participatory governance based on democracy and the rule of law. In the context of labour relations, freedom of association is of vital importance as it enables workers' and employers' organizations, in particular through collective bargaining, to establish rules in the field of working conditions, to pursue more general claims and to reconcile their respective interests with a view to ensuring lasting economic and social development[2].

The guarantee of freedom of association is a *conditio sine qua non* for the democratic character of any society[3] and for the protection of an open, pluralistic, inclusive and diverse civic space.

2. While these essential and instrumental dimensions of the right to freedom of association must be stressed, this right cannot be interpreted in isolation. It is closely interrelated and interdependent to other human rights. In particular, it facilitates and reinforces the right to freedom of conscience and religion (art. 18 of the Covenant),[4] the right to freedom of expression (art. 19),[5] the right of freedom of peaceful assembly (art. 21)[6] and the right to take part in the conduct of public affairs (art. 25).[7] Regarding the workplace and labour relations, the activities of trade unions are also vital for protecting workers both as individuals and as a group. In addition, their actions may prevent and protect against discrimination (arts. 2 and 26), , slavery, forced labour or other inhuman conditions, trafficking in persons (art. 8) and contribute to the protection of children (art. 24).[8] The full realization of the right to freedom of association is equally instrumental for the enjoyment, exercise and operationalization of the right to self-determination, including land rights, effective participation in public affairs in general and the effective participation of Indigenous Peoples and minorities in public affairs and in particular in decisions that affect them (arts. 1, 25 and 27).[9]

* Draft adopted on First Reading during the 145th session of the Committee (2- 19 March 2026).

[1] A/80/219, para. 5.

[2] 2012 General Survey of the ILO Committee of Experts on the Application of Conventions and Recommendations on the fundamental conventions, para. 51.

[3] *Lee v. Republic of Korea* (CCPR/C/84/D/1119/2002), para. 7.2. See also *Romanovsky v. Belarus* (CCPR/C/115/D/2011/2010), para. 7.2.

[4] CCPR/C/VNM/CO/4, paras. 50 and 51; *Pavlenko et al. v. Russian Federation* (CCPR/C/139/D/2765/2016), paras. 10.2–10.4 and 10.8–10.10; and *Aliyev et al. v. Azerbaijan* (CCPR/C/131/D/2805/2016), para. 7.5.

[5] *Mullina et al. v. Uzbekistan* (CCPR/C/138/D/3025/2017 and CCPR/C/138/D/3037/2017), paras. 8.11 ff.; *Katsora v. Belarus* (CCPR/C/99/D/1377/2005), para. 7.2.

[6] General comment No. 37 (2020), para. 100. Except where otherwise indicated, all references in the present document to general comments are to the general comments of the Human Rights Committee. See also *Mullina et al. v. Uzbekistan* (CCPR/C/138/D/3025/2017 and CCPR/C/138/D/3037/2017), para. 8.15.

[7] General comment No. 25 (1996), para. 8; *Farah v. Djibouti* (CCPR/C/130/D/3593/2019), para. 7.10.

[8] A/71/385, paras. 4 and 40; and Inter-American Court of Human Rights, *Right to freedom of association, right to collective bargaining and right to strike, and their relation to other rights, with a gender perspective*, Advisory Opinion OC-27/21, 5 May 2021, para. 131.

[9] *Roy et al. v. Australia* (CCPR/C/137/D/3585/2019), para. 8.7.

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3. More broadly, the right to freedom of association is at its core an enabling right[10] as it is a valuable tool to defend, promote, educate, raise awareness of, recognize and realize a wide range of other interests and rights, including economic, social, cultural, and environmental rights. Failure to respect and ensure the right to freedom of association is typically indicative of a broader repressive society.[11] In this context, grass-roots organizations, trade unions and political parties, have been instrumental in achieving fundamental goals and promoting values such as peace, social justice[12], sustainable development[13] and the protection of the environment.[14]

4. The first sentence of article 22 of the Covenant provides the following: "Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests." The right is articulated in similar terms in other universal, and regional instruments,[15] and its content has been elaborated upon by international courts and monitoring bodies, for example in their judicial decisions, Views, concluding observations, resolutions, and interpretive guidelines.[16] Considering that the Covenant is a living instrument[17] and given the "generally recognized principle that, when several rules bear on a single issue, they should, to the extent possible, be interpreted so as to give rise to a single set of compatible obligations",[18] the right to freedom of association as guaranteed under article 22 of the Covenant must be construed and implemented by States Parties in present day conditions and in harmony with their universal and regional obligations and other international instruments (see sect. VII below).

[10] Exchange of the ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR) with Treaty Body Chairs commemorating the 70th anniversary of the Universal Declaration of Human Rights and ILO Convention No. 87 in 2023. In that occasion, the CEACR highlighted that freedom of association "is at its core an enabling right: through social dialogue, including collective bargaining, peaceful assembly and organised protest actions, freedom of association had enabled workers and organizations to exercise a wide array of other human rights. These included the rights to adequate minimum wages, reasonable hours of work, safety and health at the workplace, equal treatment of women, minorities and indigenous peoples, and to promotion of employment, including through transition of workers from the informal to the formal economy."

[11] See also General comment No. 37 (2020), para. 2.

[12] See the preamble of the Constitution of the International Labour Organization (ILO) and the preamble of the ILO Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), which refers to freedom of association as "a means of improving conditions of labour and of establishing peace".

[13] See in particular A/RES/70/1: Goals 8, 16 and 17.

[14] European Court of Human Rights, *Verein Klimaseniorinnen Schweiz v. Switzerland*, Application No. 53600/20, Judgment, 9 April 2024, especially para. 489; Interamerican Court of Human Rights *Climate Emergency and Human Rights*, Advisory Opinion AO-32/25, 29 May 2025, especially para. 469.

[15] For example, Universal Declaration of Human Rights, art. 20; Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights), art. 11; American Convention on Human Rights, art. 16; Convention on the Elimination of All Forms of Discrimination against Women, art. 7 (c); African Charter on Human and Peoples' Rights, art. 10; Convention on the Rights of the Child, art. 15; International Convention for the Protection of All Persons from Enforced Disappearance, art. 24 (7); and Convention on the Rights of Persons with Disabilities, art. 29. With respect to the freedom of association of workers and employers, see, in particular the ILO Freedom of Association and Right to Organize Convention, 1948 (No 87) and the ILO Right to Organize and Collective Bargaining Convention, 1949 (No 98).

[16] See, for instance, Inter-American Juridical Committee, Declaration of Inter-American Principles on the Legal Regime for the Creation, Operation, Financing, and Dissolution of Nonprofit Civil Entities; African Commission on Human and Peoples' Rights, Guidelines on Freedom of Association and Assembly in Africa; and Organization for Security and Cooperation in Europe (OSCE) Office for Democratic Institutions and Human Rights and European Commission for Democracy through Law (Venice Commission), Joint Guidelines on Freedom of Association, 2012 General Survey of the ILO Committee of Experts on the Application of Conventions and Recommendations on the fundamental conventions.

[17] *Roy et al. v. Australia*, para. 8.14.

[18] International Court of Justice, *Obligations of States in respect of Climate Change*, Advisory Opinion, 23 July 2025, para. 165. See also European Court of Human Rights, *Demir and Baykara v. Turkey*, Application No. 34503/97, Judgment, 12 November 2008, para. 85.

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5. Taking account of the relationship of the right to freedom of association to the other rights enshrined in the Covenant, and while lawful restrictions on the right are acceptable under certain conditions provided in article 22(2), a general reservation to the rights set out in the first sentence of article 22 would be incompatible with the object and purpose of the Covenant.[19]

6. The right to freedom of association is based not only on universal, and regional treaty and declaratory instruments.[20] It is also expressly recognized in the domestic constitutions of most of the States Parties to the Covenant.[21]

7. The right to freedom of association is not conditioned by a formal State's authorization or acknowledgement. This means that, while States may impose some restrictions on the exercise of the right under the strict conditions set forth in article 22 (2), the right applies to everyone without direct, indirect, multiple or intersectional discrimination.[22] It also means that any decision on whether individuals exercise their collective activities as part of a formal organisation or entity or opt for an informal association should be a decision that rests solely with the individuals themselves[23], while the authorities should enable the establishment and functioning of associations.[24]

8. The concepts of "association" and "trade union" under article 22 of the Covenant are independent of national legal definitions or qualifications.[25] Similarly, while the provision does not expressly refer to political parties, it is well established that they are a specific form of association protected by the Covenant.[26] Moreover, the non-registration, dissolution or prohibition of an association, a trade union or a political party does not preclude its members from claiming a violation of their rights under article 22 before the Committee if the State Party has ratified the Optional Protocol on the individual communications procedure.[27]

9. While the right to freedom of association in article 22 (1) applies to everyone, restrictions and interferences of the right may have a differentiated and heightened impact on marginalized, disenfranchised or disadvantaged persons, groups, communities and peoples. Particularly affected individuals include women, especially women human rights defenders, women journalists and women trade unions members and representatives, Indigenous Peoples, people living in rural or remote areas, domestic workers[28], people living in overseas territories, environmental and land rights defenders, children and young people, trade union members and representatives, LGBTQI+ persons,[29] persons with disabilities,[30] persons who use drugs, migrants and asylum-seekers,[31] convicted persons, in particular when they are deprived of their voting rights,[32] and members of political parties, especially when they are in opposition to the Government. Therefore, the right to freedom of association must be interpreted and implemented by taking into consideration the structural and intersecting barriers that might hamper the concrete and effective realization of the right for these persons, groups and communities.

10. In addition, the right to freedom of association cannot be recognized only for activities, programmes and discourses that align with the opinions of the Government or the majority

[19] General comment No. 24 (1994), para. 6; and CCPR/C/KOR/CO/5, paras. 57 and 58.
[20] See also Inter-American Court of Human Rights, *Right to freedom of association, right to collective bargaining and right to strike, and their relation to other rights, with a gender perspective*, para. 70 (on the right to freedom of association as a 'general principle of international law').
[21] Around 190 domestic constitutions acknowledge the right to freedom of association.
[22] CCPR/C/BGR/CO/4, para. 35; and CCPR/C/PRY/CO/4, para. 14.
[23] *Pavlenko et al. v. Russian Federation*, para. 10.10. See also *Yurlov, Beklyaev and Nesterov v. Russian Federation* (CCPR/C/139/D/2925/2017), paras. 9.8-9.9.
[24] See *Pavlenko et al. v. Russian Federation*, paras. 10.9.-10.10.
[25] *Wallmann et al. v. Austria* (CCPR/C/80/D/1002/2001), para. 9.3.
[26] *Farah v. Djibouti* (CCPR/C/130/D/3593/2019), para. 6.3. See also A/68/299, para. 9.
[27] *Pavlenko et al. v. Russian Federation*, para. 9.4; and *Farah v. Djibouti*, para. 6.3. See also General comment No. 31 (2004), para. 9.
[28] ILO Domestic workers Convention, 2011 (No 189).
[29] CCPR/C/TUN/CO/6, paras. 19 and 20; and CCPR/C/PRY/CO/4, para. 14.
[30] See, in particular, articles 4(3) and 33(3) of the CRPD.
[31] CCPR/C/GRC/CO/3, paras. 36 and 37.
[32] See, mutatis mutandis, *Taylor et al. v. New Zealand* (CCPR/C/138/D/3666/2019), paras. 7.2 ff.

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of the population in a State Party. The right to freedom of association applies also to ideas, activities and actions that might be seen as controversial, dissent or disruptive,[33] including human rights, the denunciation of corruption and other politically sensitive issues.[34] As the Committee has consistently stressed, the reference to "democratic society" in the context of article 22 indicates that the existence and operation of associations, including those that peacefully promote ideas that are not necessarily favourably viewed by the Government or the majority of the population, are a cornerstone of any democratic society.[35] Attacks and infringements on the right to freedom of association of minority groups or marginalized persons or communities are thus a crucial barometer of a broader crackdown on human rights, the rule of law and democracy.[36]

11. The contexts in which the right to freedom of association is operationalized must be understood in an evolutionary manner. Given the development of new technologies that have significantly affected the way in which associations pursue their collective activities, article 22 applies equally to offline and online organizations. Digital civil society and digital civic action have become an important tool for individuals and associations. However, at the same time, new technologies can be used to hamper and undermine the exercise and full realization of right to freedom of association. For example, digital surveillance, Internet shutdowns, the lack of access to digital tools, online transnational repression and unduly restrictive monitoring of social media and websites have a chilling effect on the exercise of freedom of association.[37]

II. Scope of freedom of association (art. 22 (1))

12. Associations are organized, independent, non-profit entities that bring people together voluntarily to pursue common licit goals, interests or activities.[38] They may include political parties, non-governmental organizations, international and cross-border civic organizations, religious organizations, social movements, trade unions and employers' organizations, including federations and confederations[39], school- and university-based associations, professional associations, such as bar associations, legal aid organizations, foundations, and clubs.

13. As an essential right grounded in the equality and dignity of individuals, its protection applies equally to informal, unregistered *de facto* associations.[40] Therefore, such associations do not need any domestic authorization[41] or recognition in order to fall under the protection of the right to freedom of association.[42] Should individuals request the authorization and registration of their association, States Parties have a positive obligation to create an enabling

[33] *Lee v. Republic of Korea* (CCPR/C/84/D/1119/2002) para. 7.2; and general comment No. 37 (2020), para. 7.

[34] CCPR/C/TKM/CO/3, para. 46; CCPR/C/TUN/CO/6, paras. 49 and 50; and CCPR/C/AGO/CO/2, para. 43.

[35] *Lee et al. v. Republic of Korea* (CCPR/C/130/D/2776/2016), para. 7.4; *Romanovsky v. Belarus* (CCPR/C/115/D/2011/2010), para. 7.2; and *Zvozskov et al. v. Belarus* (CCPR/C/88/D/1039/2001), para. 7.2. See also CCPR/C/BDI/CO/3, paras. 41 and 42.

[36] A/HRC/56/49, para. 18.

[37] CCPR/C/ESP/CO/7, paras. 40 and 41; and CCPR/C/IDN/CO/2, paras. 36 and 37. See also Human Rights Council resolution 58/23 of 4 April 2025 on human rights defenders and new and emerging technologies: protecting human rights defenders, including women human rights defenders, in the digital age, A/HRC/51/17, para. 27; Joint Declaration on Freedoms of Peaceful Assembly and of Association and Misuse of Digital Technologies of 15 September 2023; and Global Digital Compact, May 2023.

[38] OSCE Office for Democratic Institutions and Human Rights and Venice Commission, Joint Guidelines on Freedom of Association, para. 7; African Commission on Human and Peoples' Rights, Guidelines on Freedom of Association and Assembly in Africa, para. 1.

[39] Articles 2, 5, 6 and 10 of ILO Convention No 87.

[40] *Belyatsky et al. v. Belarus* (CCPR/C/90/D/1296/2004), para. 7.2.

[41] Under article 2 of ILO Convention No .87, workers and employers, without distinction whatsoever, shall have the right to establish and, subject only to the rules of the organisation concerned, to join organisations of their own choosing without previous authorisation.

[42] CCPR/C/VEN/CO/5, paras. 41 and 42; and CCPR/C/MRT/CO/2, paras. 46 and 47.

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environment to facilitate the enjoyment and the exercise of the right (see sect. IV below).[43] In this regard, legislation that impose burdensome or onerous registration requirements do not meet the requirements of article 22.[44] Therefore, access to registration and accompanying recognition of legal personality must be seen as a right protected by article 22.

14. Article 22 (1) covers the whole life cycle of an association, including the right to terminate an association when its members consider it is not in their interest to continue with the association. The right to freedom of association not only guarantees the formation of associations but also the right of such associations to carry out their activities freely.[45] For example, it covers the right to seek, receive and expend funding and other material resources, including those coming from outside the State party, without the risk of being labelled a "foreign agent" or a threat to national security.[46] It also covers the right of the association to document, preserve and have access to its own archives.

15. The freedom of every association to carry out its activities is based on the core principles of independence, autonomy and self-governance. Therefore, associations have the right to freely determine their membership and elect their representatives[47], provided they respect the right to non-discrimination,[48] and their purposes, programmes and actions, without restriction incompatible with article 22(2).[49] In this regard, the designation or inclusion of members of organizations imposed by the authorities, including government representatives, would infringe the right to freedom of association.[50] In the same vein, the oversight powers of the authorities must be strictly defined.[51] A law granting the Government undue power or influence to decide on the registration or deregistration of an association and on authorization of public or foreign funding for an association would be at odds with article 22.[52]

16. The principles of independence, autonomy and self-governance also mean that individuals may choose how to exercise their freedom, whether offline or online or in both contexts, without undue restriction or discrimination and in accordance with any specific needs that the individuals may have.[53]

17. While an association is defined as an independent and a non-profit organization, it is not precluded from performing economic activities. Non-profit status should not be an obstacle as such to commercial activities, provided that they do not become the main purpose of the association. Moreover, associations covered by article 22 must be distinguished from groups of individuals who carry out lobbying activities, which are a different form of public

[43] See also African Commission on Human and Peoples' Rights, Guidelines on Freedom of Association and Assembly in Africa, fundamental principle ii (enabling framework).

[44] CCPR/C/LKA/CO/6, para. 42; CCPR/C/VEN/CO/5, paras. 41 and 42; CCPR/C/UGA/CO/2, para. 46; CCPR/C/TKM/CO/3, para. 46; and CCPR/C/UZB/CO/5, para. 42; 2012 General Survey of the ILO Committee of Experts on the Application of Conventions and Recommendations on the fundamental conventions, paras 84 and 85.

[45] *Belyatsky et al. v. Belarus*, para. 7.2; and *Korneenko v. Belarus* (CCPR/C/88/D/1274/2004), para. 7.2.

[46] CCPR/C/PSE/CO/1, para. 43. See also Declaration of Inter-American Principles on the Legal Framework for the Creation, Operation, Financing, and Dissolution of Nonprofit Civil Entities, principle 7; OSCE Office for Democratic Institutions and Human Rights and Venice Commission, Joint Guidelines on Freedom of Association, principle 7; and A/HRC/23/39.

[47] Concerning workers' and employers' organizations, see art. 3 of ILO Convention No 87.

[48] *Arenz et al. v. Germany* (CCPR/C/80/D/1138/2002), para. 8.5. See also European Court of Human Rights, Application No. 56030/07, *Fernandez Martinez v. Spain*, 12 June 2014, especially para. 132.

[49] CCPR/C/LKA/CO/6, para. 42.

[50] CCPR/C/SYR/CO/4, para. 44; and CCPR/C/VEN/CO/5, para. 41.

[51] African Commission on Human and Peoples' Rights, Guidelines on Freedom of Association and Assembly in Africa, paras. 33–35.

[52] CCPR/C/SVK/CO/5, paras. 43-44; CCPR/C/SYR/CO/4, paras. 44 and 45. See also CCPR/C/FRA/CO/6, paras. 42 and 43.

[53] Article 24 of the Covenant; Committee on the Rights of the Child, general comment No. 20 on the implementation of the rights of the child during adolescence (2016), para. 45.

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and political participation.[54] In this respect, States Parties should not instrumentalize the regulations on lobbying activities to unduly restrict the right to freedom of association.[55]

18. The right to freedom of association includes the right not to join any association.[56] Therefore, membership of an association, political party or trade union must be based on the principle of free consent exercised without any coercion.[57] Any restrictions on that right must be exceptional, strictly limited and fully in line with article 22 (2) (see sect. V below).[58]

19. The principles of independence, autonomy and self-governance apply not only to the creation, membership and activities of the association but also to its termination and dissolution. Compulsory dissolution can occur only as an exceptional measure and must strictly follow the restriction requirements set out in article 22 (2)[59]. Under article 4 of ILO Convention No 87, workers' and employers' organisations shall not be liable to be dissolved or suspended by administrative authority. Any restrictions on their rights under article 22, such as the right to seek, receive and use funding, must meet the strict requirements of article 22 (2), read in the light of article 5 (1) of the Covenant and be subject to appropriate procedural safeguards, including access to an effective remedy in accordance with articles 2 (3) and 14 of the Covenant (see sect. V below).

III. Trade unions (art. 22 (2) and (3))

20. Under article 22 (1) of the Covenant, which echoes article 23 (4) of the Universal Declaration of Human Rights, the right to form and join trade unions is a component of the right to freedom of association, which is a universal right and therefore fully applies to workers' and to employers' associations. Article 22 (2) of the Covenant provides that States Parties may limit the exercise of the right to freedom of association for certain categories of workers, namely "members of the armed forces and of the police". Article 22 (3) establishes the legal relationship between the Covenant and the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), of the International Labour Organization (ILO).[60] The Right to Organise and Collective Bargaining Convention, 1949 (No. 98),[61] although not mentioned in article 22 (3), supplemented ILO Convention No 87 and is therefore relevant for the interpretation and implementation of article 22 of the Covenant, alongside other conventions and norms adopted by the ILO[62].

[54] OSCE Office for Democratic Institutions and Human Rights, *Guidelines on Democratic Lawmaking for Better Laws* (2023), paras. 75 and 90.

[55] OSCE Office for Democratic Institutions and Human Rights and Venice Commission, Joint Guidelines on Freedom of Association, para. 81.

[56] Universal Declaration of Human Rights, art. 20 (2); and African Charter on Human and Peoples' Rights, art. 10 (2). See also OSCE Office for Democratic Institutions and Human Rights and Venice Commission, Joint Guidelines on Freedom of Association, para. 7; African Commission on Human and Peoples' Rights, Guidelines on Freedom of Association and Assembly in Africa, para. 1. See also General comment No. 22 (1993), para. 2 (regarding the negative dimension of the right to freedom of thought, conscience and religion).

[57] See CCPR/C/BDI/CO/3, paras. 41-42.

[58] *Wallmann et al. v. Austria*, paras. 9.4-9.5. See also Interamerican Court of Human Rights, *Compulsory membership in an association prescribed by law for the practice of journalism*, Advisory Opinion of OC-5/85 of November 13, 1985. Series A No. 5; European Court of Human Rights, *Hermann v. Germany*, Application No. 9300/07, Judgment of 20 January 2011, paras. 78-79; African Court on Human and Peoples' Rights, *Tanganyika Law Society and The Legal and Human Rights Centre v. United Republic of Tanzania*, Application No. 009/2011, and *Mtikila v. United Republic of Tanzania*, Application No. 011/2011, Judgment, 14 June 2013, paras. 113 ff.

[59] *Lee et al. v. Republic of Korea*, para. 7.7; CCPR/C/KWT/CO/4, para. 46; and CCPR/C/PSE/CO/1, para. 43. See also Declaration of Inter-American Principles on the Legal Framework for the Creation, Operation, Financing, and Dissolution of Nonprofit Civil Entities, principle 12.

[60] The Freedom of Association and Protection of the Right to Organisation Convention, 1948 (No. 87) has been ratified by 158 States, 156 of which are also States Parties to the Covenant.

[61] The Right to Organise and Collective Bargaining Convention, 1949 (No. 98) has been ratified by 168 States, 167 of which have also ratified the Covenant.

[62] A series of additional ILO conventions and recommendations complement conventions 87 and 98, both by addressing concrete elements of freedom of association in the context of labour relations (the Collective agreements Recommendation, 1951 (No

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21. The inclusion of trade union rights in the Covenant interrelates with article 8 of the International Covenant on Economic, Social and Cultural Rights. While the respective provisions are not identical, the important commonality between them reflects the fact that the right of each individual to freely associate with others, including the right to form and join trade unions, is at the intersection between civil and political rights and economic, social and cultural rights.[63]

22. The interdependence between trade union rights, democracy and civil and political rights must be fully recognized and highlighted.[64] Freedom of association and the practice of collective bargaining provide checks and balances that are central to the larger democratic process[65] and strong and independent workers' organizations are essential to compensate the legal and economic inferiority of workers[66]. In addition, the possibility for workers to establish or join the union of their own choosing[67] is a structural component of democratic pluralism. On a more specific note, the capacity of journalists to establish and join their own trade unions is an indispensable safeguard for their activities and their safety and a cornerstone of a pluralistic democracy.23. The right to freedom of association as applied to the workplace and labour relations has both individual and collective dimensions that are closely connected.[68] The individual dimension means that persons have the right to create, join, participate in or leave a trade union without any fear of violence, reprisals, either by public or private actors, undue intervention by the State or restrictions that would contravene article 22 (2) of the Covenant.[69] Harassment, arbitrary arrest and killing of trade union activists infringe not only the right to life (art. 6) and the right to liberty and security of person (art. 9) but also the right to freedom of association.[70] In addition, the protection afforded to workers and trade union leaders against acts of antiunion discrimination (such as antiunion dismissals and other detrimental acts)--- and acts of interference is an essential aspect of freedom of association, as such acts may result in practice in a denial of freedom of association[71].

A blanket ban on trade union rights for public sector workers without necessary and proportionate justification would be at odds with the individual dimension of article 22.[72] In the same vein, a refusal to allow individuals who have been dismissed from their employment to be members of a trade union would not be in accordance with article 22.[73]

24. As far as the collective dimension is concerned, article 22 implies that trade unions are established, carry out their activities and exercise their mandate based on the principles of autonomy and self-governance and without any interference from the State Party that is incompatible with article 22 (2). Accordingly, legislation allowing the authorities excessive control over the creation, functioning and activities of trade unions,[74] including surveillance and interception of trade union data,[75] sanctions such as the deregistration of trade unions for

91), the Workers' Representatives Convention, 1971 (No. 135) complemented by Recommendation No 143, the Collective Bargaining Convention, 1981 (No. 154) complemented by Recommendation No 163) and by specifically focusing on the freedom of association of certain categories of workers as in the Plantations Convention, 1958 (No. 110) (Section IX) complemented by Recommendation No 143, the Rural Workers' Organisations Convention, 1975 (No. 141) complemented by Recommendation No 149, the Labour Relations (Public Service) Convention, 1978 (No. 151) complemented by Recommendation No 159, the Maritime Labour Convention, 2006 (MLC), the Domestic Workers Convention, 2011 (No. 189) complemented by Recommendation No 201, the Quality Apprenticeships Recommendation, 2023 (No. 208) and the Decent Work in the Platform Economy Convention, 2026 (No 193), among others.

[63] E/C.12/66/5-CCPR/C/127/4, para. 2.

[64] Resolution concerning trade union rights and their relation to civil liberties, adopted by the International Labour Conference at its fifty-fourth session (1970). See also Inter-American Court of Human Rights, *Baena Ricardo et al. v. Panama*, Judgment, 2 February 2001, paras. 157 ff.

[65] *Organizing for social justice*, Global Report under the Follow-up to the ILO Declaration on Fundamental Principles and Rights at Work, ILO 2004, para. 33.

[66] 2012 CEACR General Survey, para. 51.

[67] 2012 CEACR General Survey, para. 92.

[68] Inter-American Court of Human Rights, *Huilca Tecse v. Peru*, Judgment, 3 March 2005, para. 69. See also Inter-American Court of Human Rights, *Right to freedom of association, right to collective bargaining and right to strike, and their relation to other rights, with a gender perspective*, para. 71.

[69] For instance, CCPR/C/KHM/CO/3, para. 36. See also ILO Convention No. 87, arts. 2 and 3.

[70] CCPR/C/NGA/CO/2, para. 46.

[71] Arts 1 and 2 of ILO C. 98, 2012 CEACR General Survey Para. 167.

[72] CCPR/C/DEU/CO/7, para. 50; CCPR/C/KOR/CO/4, para. 54; and CCPR/C/KOR/CO/5, para. 57.

[73] CCPR/C/KOR/CO/4, para. 54.

[74] CCPR/C/BRA/CO/3, paras. 59-60.

[75] CCPR/C/CHN-HKG/CO/4, para. 39.

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exercising their right to strike or criminal prosecution of their members,[76] would be contrary to article 22. The same applies to excessive restrictions on collective bargaining and collective action.[77]

25. The right to negotiate freely with employers on working conditions is indeed an essential element of freedom of association and trade unions should have the right, through collective bargaining to seek to improve the living and working conditions of those they represent[78]. Therefore, article 22, read in the light of ILO Conventions No. 87 and 98, includes the right of workers to participate in collective bargaining as a vehicle to defend their interests.[79]

26. Since the Covenant is a living instrument, as mentioned above, workers have also the right to strike without any undue restriction under article 22 (2).[80] In its Advisory Opinion of 21 May 2026, the International Court of Justice found that "*the question of whether "the right to strike of workers and their organizations [is] protected under the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)" is to be answered in the affirmative*" and concluded inter alia, that "*an interpretation taking into account the relevant rules of international law contained in the ICESCR and the ICCPR indicates that the protection of the right to strike is encompassed in the protection of the freedom of association provided by Convention No. 87.* In this respect, a blanket strike ban on a category of workers such as civil servants would not be in conformity with article 22.[81]

27. The right to freedom of association in the field of work encompasses all categories of workers without distinction whatsoever[82], regardless of the form of employment,[83] their classification as employees or self-employed workers[84], their formal or informal status,[85] whether they are domestic or platform workers[86] or their migratory status. This is especially important given that the lack of a forum to protect and defend the interests of workers may facilitate or enable economic exploitation, trafficking in persons and forced labour, which are prohibited under article 8 of the Covenant.[87]

28. As far as the specific categories of the military and police forces are concerned, article 22 (2) must be interpreted strictly: the provision does not deny the enjoyment of their right to form, join and participate in trade unions but rather allows the State Party to regulate the exercise of those rights. Therefore, these categories of workers are not excluded per se

[76] Ibid., para. 49.
[77] CCPR/C/KOR/CO/5, para. 57.
[78] Compilation of decisions of the ILO Committee on Freedom of Association sixth edition, 2018. para. 1232; 2012 General Survey of the ILO CEACR on fundamental conventions, para. 164.
[79] See, in particular, ILO Convention No. 98, art. 4. While Convention No 98 does not deal with the position of public servants engaged in the administration of the State, ILO Conventions No. 151 and 154 complement Convention No. 98 by extending the scope of application of collective bargaining to the whole public service.
[80] In this regard, the position adopted by the Committee in *J.B. et al. v. Canada*, communication No. 118/1982, para. 6.4, must be read in the light of the Committee's subsequent practice when examining the reports of States Parties. See also Inter-American Court of Human Rights, *Right to freedom of association, right to collective bargaining and right to strike, and their relation to other rights, with a gender perspective*, paras. 95–105. Based on the wide recognition of the right to strike in constitutions, the Court affirmed that it is a "general principle of international law" (para. 97). See also European Court of Human Rights, *National Union of Rail, Maritime and Transports Workers v. United Kingdom*, Application No. 31045/10, Judgment, 8 April 2014, paras. 75 ff.
[81] CCPR/C/EST/CO/4, paras. 31 and 32; CCPR/C/DEU/CO/7, paras. 50-51.
[82] Art. 2 of ILO Convention No 87.
[83] CCPR/C/KOR/CO/5, para. 57.
[84] 2012 ILO CEACR General Survey on Fundamental Conventions, paras. 53 and 71.
[85] CCPR/C/QAT/CO/1, paras. 40 and 41.
[86] CCPR/C/KOR/CO/5, para. 57. See also the newly adopted ILO Decent Work in the Platform Economy Convention, 2026 (No 193).
[87] CCPR/C/TKM/CO/3, paras. 32 and 33.

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from protection under article 22; however, States Parties enjoy a greater leeway for limiting their rights.[88]

IV. States Parties' negative and positive obligations

28. The Committee has consistently held that article 2 of the Covenant imposes general negative and positive obligations.[89] Accordingly, States Parties – legislative, executive and judicial branches —, and at federal, provincial and local levels when applicable,[90] must refrain from violating the rights recognized in the Covenant and any restrictions on any of these rights must be justified under the relevant provisions of the Covenant. Article 2 in addition requires that States Parties adopt legislative, judicial, administrative, educative and other appropriate measures in order to fulfil their international legal obligations.[91] These obligations must be applied in conjunction with the prohibition of all forms of discrimination (art. 2 and 3) and equality before the law (art. 26).[92]

29. States Parties are required by article 2 (1) to respect and to ensure to all individuals within their territory, and to individuals subject to their jurisdiction, the rights recognized in the Covenant. This means that a State Party must respect and ensure the rights laid down in the Covenant of anyone within the power or effective control of that State Party, even if the person is not situated within the territory of the State Party.[93] The rights enshrined in the Covenant apply equally to the whole territory of the State Party, including in its non-self governing and overseas territories.[94] The State Party's obligations extend to multilateral levels for associations acting transnationally and before international bodies.[95] Obligations also extend extraterritorially, when States Parties exercise effective control over a situation, persons or a territory under the well-established conditions set forth by the Covenant and the Committee.[96]

30. Applied to the right to freedom of association, the obligation to respect means that States Parties must refrain from restricting the right de jure or de facto in a way that would be incompatible with article 22 (2) (see sect. V below). Accordingly, measures that are prohibited include arbitrarily refusing to register an association, dissolving or banning an association, imposing a travel ban on association members or making it compulsory for them to request travel authorization,[97] ban on the right to enter their own country, withdrawing association members' nationality, cancelling their passports and identity documents, performing surveillance, including online, of the organization's activities, infiltrating an

[88] In this sense, see European Court of Human Rights, *Matelly v. France*, Application No. 10609/10, Judgment, 2 October 2014, paras. 55–62. On the basis of article 9.1 of ILO Convention No 87, the CEACR considers the only authorized exceptions from the scope of application of the Convention concern members of the police and the armed forces. .In the view of the CEACR, these exceptions must however be construed in a restrictive manner. For example, they do not include civilian personnel in the armed forces, fire service personnel, prison staff, customs and excise officials, civilian employees in the industrial establishments of the armed forces, civilian employees in the intelligence services, or employees of the legislative authority. Nor do they automatically apply, in the view of the Committee, to all employees who may carry a weapon in the course of their duties, who cannot a priori be excluded from the scope of the Convention. 2012 CEACR General Survey on Fundamental Conventions, para. 67.

[89] General comment No. 31 (2004), para. 8.
[90] General comment No. 31 (2004), para. 4. See also CCPR/C/CAN/CO/7, paras. 5-6.
[91] General comment No. 31 (2004), paras. 6 and 7.
[92] As far as workers' and employers' rights are concerned, see also ILO Convention No. 87, art. 11.
[93] General comment No. 31 (2004), para. 10.
[94] CCPR/C/GBR/CO/8, paras. 6, 7, 54 and 55; and CCPR/C/FRA/CO/6, paras. 10 and 11.
[95] CCPR/C/AGO/CO/2, para. 43; and Human Rights Council resolution 58/23. See, mutatis mutandis, *Tholal et Mahmood v. Maldives* (CCPR/C/130/D/3248/2018), paras. 8.2 ff.
[96] For example, *Nabhari v. Australia* (CCPR/C/142/D3663/2019), paras. 7.6 ff.; *M.I. et al. v. Australia* (CCPR/C/142/D/2749/2016), para. 9.9; *D.O. et al. v. Russian Federation* (CCPR/C/139/D/2871/2016), paras. 8.4 ff.; and *A.S. et al. v. Italy* (CCPR/C/130/D/3042/2017), para. 7.4.
[97] CCPR/C/UZB/CO/5, para. 48.

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association with covert police or intelligence services,[98] carrying out police raids and search of private homes,[99] reprisals, and harassment of association's members, including through administrative proceedings and requirements, misuse of counter-terrorism [100] and anti-money-laundering measures, imposing restrictive and burdensome funding or tax regulations on associations, criminalizing association activities or membership or criminalizing legal aid associations, and instrumentalizing defamation proceedings and other means of "strategic litigation against public participation" (SLAPP lawsuits). [101] Such measures impede the full realisation of the right and may have a chilling effect on its exercise.[102]

31. The most severe forms of infringements – such as arbitrary arrest and detention, torture and other forms of ill-treatments, arbitrary deprivation of life or enforced disappearance of people exercising their right to freedom of association – in addition amount to a breach of other Covenant rights, such as the right to life, the prohibition of torture, the right to legal personality, and the right to liberty and security of person.[103]

32. As indicated above, in line with article 2 of the Covenant, the obligation to respect Covenant rights is not limited to a State Party's territory. Therefore, article 22 prohibits a State Party from torturing, disappearing, arbitrarily arresting and detaining, intimidating, harassing, cyber-repressing or committing any similar actions against, for instance, journalists, human rights defenders, environmental defenders, lawyers and legal aid organizations, media workers and trade union members living abroad.[104]

33. The positive obligations under article 22 require the States Parties to create an enabling environment for the enjoyment and the exercise of the right to freedom of association covering the whole life cycle of an association.[105] Creating such an environment requires a wide range of actions to facilitate the implementation of the right, including relating to registration, policies on tax incentives and tax exemption for associations, pursuit of and access to funding, access to and preservation of records and archives, and the manner in which an association carries out its activities, including in relation to the exercise of other rights, such as the right to enjoy in community their own culture, to profess and practice their own religion, or to use their own language; freedom of movement; freedom of expression; or the right to privacy and to freedom of peaceful assembly. In the context of labour relations, the creation of an enabling environment for the exercise of the right to freedom of association also requires the existence of appropriate mechanisms and procedures to ensure an adequate protection against anti-union discrimination and interference from both public and private actors, and the promotion of collective bargaining[106].

34. Viewing articles 2 and 22 of the Covenant together, the enabling environment must be assessed comprehensively and *in globo*. Cumulative and indirect measures can breach the right to freedom of association even where a single action or omission by State authorities taken in isolation does not appear decisive.[107]

35. Under the positive obligations of article 22, States Parties are required to ensure the existence of a functioning environment for associations. They are also obliged to address hostile actions, discourses and narratives, including online, vis-à-vis associations and their members, whether they emanate from public figures or private persons or actors. This is especially so where associations focus on issues considered by the majority of the population

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[98] CCPR/C/ESP/CO/7, paras. 40 and 41.
[99] *Mullina et al. v. Uzbekistan* (CCPR/C/138/D/3025/2017 and CCPR/C/138/D/3037/2017), para. 8.14.
[100] See A/HRC/61/52, especially para. 5.
[101] CCPR/C/FRA/CO/6, paras. 42 and 43. See also, mutatis mutandis, *Nasheed v. Maldives* (CCPR/C/122/D/2270/2013-CCPR/C/122/D/2851/2016), paras. 8.2 ff.
[102] See A/79/263.
[103] See *Tripathi and C.T. v. Nepal* (CCPR/C/112/D/2111/2011); *López Martínez et al. v. Colombia*; and Human Rights Committee, *López Burgos v. Uruguay*, communication No. 52/1979.
[104] CCPR/C/TUR/CO/2, paras. 23–26; CCPR/C/VNM/CO/4, paras. 24 and 25; and CCPR/C/IND/CO/4, paras. 51 and 52.
[105] *Belyatsky et al. v. Belarus*, para. 7.2; and *Korneenko v. Belarus*, para. 7.2.
[106] Articles 3 and 4 of ILO Convention No 98.
[107] See, in particular, general comment No. 31 (2004), paras. 3 and 4.

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or the Government to be controversial or sensitive,[108] such as gender issues, migrants' rights, corruption, business projects in the context of extractive industries, opponents to economic development projects or megaprojects or other opposition political issues.[109]

36. In addition, while States Parties have a negative obligation to prevent their officials or agents from harassment of individuals extraterritorially, they also have a positive obligation to protect individuals subject to their jurisdiction against such a risk coming from third States, whether the harassment, attacks, kidnapping, enforced disappearance or any other acts of violence are carried out offline or through transnational digital surveillance.[110]

37. The growing online dimension of association activities may give rise to challenges for States Parties in meeting their positive and negative obligations under articles 2 and 22 of the Covenant. Private entities such as service providers, content moderation bodies, digital technology companies and social media companies are key actors in online communication sectors. In this regard, States Parties are obliged not only to adopt measures to require business enterprises to perform human rights due diligence assessments, but also to investigate human rights abuses committed by those enterprises both on their territory and abroad.[111]

38. States Parties' positive obligation to create an enabling environment must be read in conjunction with the provisions on non-discrimination (art. 2 and 3) and the right to equality before the law (art. 26). Specific measures might be required to address the *de facto* situation of minorities, marginalized, disenfranchised, or disadvantaged rights holders and the structural barriers that they face to enjoying and operationalizing their rights.[112] It may also be necessary to adapt measures to the context of the associations' activities, such as organizations working in prisons and other detention facilities and organizations providing life-saving assistance in risky contexts, such as armed conflicts, occupied territories or maritime search and rescue missions (see sections VI and VII below).

39. States Parties' negative and positive obligations must also be met in conjunction with the requirements in articles 2 (3) and 14 to provide access to an effective remedy and to uphold the right to equality before the tribunals.[113] The preservation of democratic civic space is directly connected to the rights to equality before the courts and tribunals and to a fair trial, which serve as a procedural means to safeguard the rule of law.[114] In addition, article 2 (3) requires that States Parties make reparation to individuals whose Covenant rights have been violated.[115] Therefore, the need to fight impunity and provide access to justice in case of a violation of article 22 committed by public or private actors is a critical aspect of the enabling environment that is indispensable to the full realization of the right to freedom of association and to the avoidance of a chilling effect.[116]

40. The remedies must be effective in theory and in practice and they must not impose undue restrictions on the individuals concerned.[117] The measures of reparation must be tailored to the situation of the rights holder. For instance, in the case of the dissolution of an association, including a political party, in violation of article 22, an effective remedy might be access to domestic proceedings to review the denial of registration,[118] the reregistration of the

[108] *Lee et al. v. Republic of Korea*, para. 7.4; and *Romanovsky v. Belarus*, para. 7.2. See also CCPR/C/BDI/CO/3, paras. 41 and 42.
[109] CCPR/C/MEX/CO/6, para. 42.
[110] Mutatis mutandis, CCPR/C/GBR/CO/8, para. 50. See also OHCHR, "Transnational repression", Civic space brief (18 June 2025); and Human Rights Council resolution 58/23.
[111] CCPR/C/CAN/CO/7, para. 9; CCPR/C/KOR/CO/5, paras. 9 and 10; and CCPR/C/DEU/CO/7, paras. 46 and 47. See also Inter-American Court of Human Rights, *Inhabitants of La Oroya v. Peru*, Judgment, 27 November 2023, paras. 107 ff.; and UN Guiding Principles on Business and Human Rights.
[112] General comment No. 31 (2004), para. 15.
[113] Ibid.
[114] General comment No. 32 (2007), para. 2.
[115] General comment No. 31 (2004), para. 16; and CCPR/C/158.
[116] See *López Martínez et al. v. Colombia*; *Tripathi and C.T. v. Nepal*; and *López Burgos v. Uruguay*. See also CCPR/C/MEX/CO/6, para. 42; and CCPR/C/PRY/CO/4, para. 14.
[117] For example, CCPR/C/FRA/CO/6, para. 42.
[118] *Pavlenko et al. v. Russian Federation* (CCPR/C/139/D/2765/2016), para. 12; *Yurlov, Beklyaev and Nesterov v. Russian Federation* (CCPR/C/139/D/2925/2017), para. 11.

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association, [119] in addition to other measures such as compensation, reimbursement of court fees and legal expenses. When the violation of article 22 is rooted in domestic legislation, the amendment of the legislative framework might be an adequate guarantee of non-repetition. [120]

V. Restrictions on the right of freedom of association (art. 22 (2))

41. The right to freedom of association is not absolute. Pursuant to article 22 (2), in order to be consistent with the Covenant, any restriction on the right to freedom of association must meet all three of the following conditions: (a) it must be provided by law; (b) it may be imposed only for one of the purposes set out in paragraph 2 (2); and (c) it must be "necessary in a democratic society" for achieving one of those purposes. [121] As in the case of restrictions on freedom of expression [122] and on freedom of peaceful assembly, [123] when a State Party imposes restrictions on the right to freedom of association, they may not jeopardize the right itself. As has also been stressed for other rights protected by the Covenant, the relation between right and restriction and between rule and exception must not be reversed. [124]

42. Applied to the right to freedom of association, this long-standing strict interpretation of restrictions implies a general presumption in favour of the lawfulness of the creation of associations, their objectives and their activities that must guide the interpretation and implementation of article 22, [125] as well as the requirement that any restrictions be accompanied by adequate procedural safeguards, including prior review where appropriate and effective access to independent and impartial judicial oversight. [126]

43. The first condition to be met under article 22 (2) is that a restriction "must be provided by law". Similarly to the legal regime applied to the restrictions on freedom of expression [127] and freedom of peaceful assembly, [128] the legality condition requires the legal basis - whether a domestic constitution, a law enacted by a parliament, a judicial decision [129] or an administrative act - to be clear, precise and accessible to the public. [130] For example, a domestic constitution cannot subject the right to additional restrictions such as those pertaining to racial and religious harmony and tolerance. [131] In the same vein, broad and vague criteria for registering an association [132], for refusing its registration due its "political objectives", [133] or an open-ended definitions such as "extremist activity" contained in a law providing the basis for the dissolution of a religious organization would not meet the legality condition. [134] Neither would legislation allowing the dissolution of an association by an administrative decision for "interference with the domestic affairs of the country or affront

[119] *Farah v. Djibouti*, para. 9; and *Belyatsky et al. v. Belarus*, para. 9.
[120] *Lee v. Republic of Korea* (CCPR/C/84/D/1119/2002), para. 9.
[121] *Lee et al. v. Republic of Korea*, para. 7.1; *Korneenko v. Belarus*, para. 7.3; and CCPR/C/IDN/CO/2, paras. 36 and 37. See also Siracusa Principles on the Limitation and Derogation Provisions in the International Covenant on Civil and Political Rights.
[122] General comment No. 34 (2011), para. 21.
[123] General comment No. 37 (2020), para. 36.
[124] Ibid. See also general comment No. 27 (1999) on freedom of movement, para. 13.
[125] See also General comment No. 37 (2020), para. 17; OSCE Office for Democratic Institutions and Human Rights and Venice Commission, Joint Guidelines on Freedom of Association, principle 1; African Commission on Human and Peoples' Rights, Guidelines on Freedom of Association and Assembly in Africa, fundamental principle I.
[126] General comment No. 31 (2004), paras. 15-16.
[127] General comment No. 34 (2011), para. 25.
[128] General comment No. 37 (2020), para. 39.
[129] *Bessis v. France* (CCPR/C/133/D/3215/2018), para. 9.2.
[130] CCPR/C/BFA/CO/2, paras. 44 and 45.
[131] CCPR/C/LKA/CO/6, paras. 42 and 43; and CCPR/C/CAF/CO/3, para. 35. See also African Commission on Human and Peoples' Rights, Guidelines on Freedom of Association and Assembly in Africa, para. 4.
[132] CCPR/C/KWT/CO/4, para. 46.
[133] CCPR/C/BGR/CO/4, para. 35.
[134] *Pavlenko et al. v. Russian Federation*, para. 10.4. See also CCPR/C/UZB/CO/5, para. 42.

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to national sovereignty"[135] or because it does not carry out "normal" activities.[136] Similarly, the practice of designating individuals and organizations as "terrorist" for the purpose of imposing travel bans or financial sanctions, including freezing assets,[137] must follow strict legality requirements, especially with regard to the clarity, preciseness and accessibility of the criteria,[138] and must be accompanied by judicial guarantees that comply with articles 2 (3) and 14 of the Covenant.[139]

44. In this regard, the use of domestic legislation to criminalize an association, its members, human rights defenders or journalists for their activities must not only respect article 22 but also meet the strict criminal legality principle as enshrined in article 15 of the Covenant. The criminal legality principle is non-derogable and therefore no circumstances such as counterterrorism or anti-money-laundering measures can justify its infringement.[140] The same applies to vaguely worded legislation adopted to combat "extremism",[141] "extremist activity",[142] funding coming from abroad[143] or "undesirable" organizations.[144]

45. The second condition to be met under article 22 (2) is that the restriction may be imposed only for one of the purposes set out in that paragraph, namely "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". This condition of legitimacy of the restrictions is strictly interpreted by the Committee, and States Parties cannot invoke grounds that are not expressly mentioned in article 22 (2).[145] In case of extreme measures, such as the dissolution of a political party, only very serious circumstances necessary to ensure public safety or the maintenance of the constitutional order can be seen as legitimate.[146]

46. As affirmed in the Siracusa Principles on the Limitation and Derogation Provisions in the International Covenant on Civil and Political Rights and applied to the restriction regime of other rights enshrined in the Covenant, "national security may be invoked to justify measures limiting certain rights only when they are taken to protect the existence of the nation, its territorial integrity or political independence against force or threat of force".[147] Similarly, "public safety means protection against danger to the safety of persons, to their life or physical integrity or serious damage to their property".[148] The public order (*ordre public*) element may be defined as the sum of rules which ensure the functioning of society or the set of fundamental principles on which society is founded. Respect for human rights is itself part of public order (*ordre public*).[149] Therefore, the existence of any reasonable and objective justification for limiting freedom of association is not sufficient, and the State Party must further demonstrate that the prohibition of the association and the criminal prosecution of individuals for membership in such organizations are in fact necessary to avert a genuine,

[135] CCPR/C/DZA/CO/4, para. 47.
[136] CCPR/C/CHN-HKG/CO/4, para. 49.
[137] A/80/284, para. 17.
[138] Ibid., paras. 20–39.
[139] Mutatis mutandis, *Sayadi and Vinck v. Belgium* (CCPR/C/94/D/1472/2006), paras. 10.4 ff.
[140] CCPR/C/ZWE/CO/2, paras. 54 and 55; CCPR/C/FRA/CO/6, para. 17; CCPR/C/SOM/CO/1, paras. 25 and 26; CCPR/C/PER/CO/6, paras. 14 and 15; CCPR/C/ISR/CO/5, paras. 18-19; CCPR/C/TUR/CO/2, paras. 15–18; CCPR/C/NIC/CO/4, paras. 15 and 16; CCPR/C/RUS/CO/8, paras. 18 and 19; and *Alakuş v. Türkiye* (CCPR/C/135/D/3736/2020), paras. 10.4 ff.
[141] CCPR/C/UZB/CO/5, para. 20; and CCPR/C/KAZ/CO/3, paras. 17 and 18.
[142] CCPR/C/RUS/CO/8, paras. 30 and 31.
[143] CCPR/C/SVK/CO/5, paras. 43-44; CCPR/C/KAZ/CO/3, paras. 53 and 54; and CCPR/C/NIC/CO/4, paras. 33 and 34. See also OSCE Office for Democratic Institutions and Human Rights, "Note on legislative initiatives on transparency and regulation of associations funded from abroad or so-called 'foreign agents laws' and similar legislation and their compliance with international human rights standards: Georgia" (NGO-GEO/465/2023), 25 July 2023.
[144] CCPR/C/RUS/CO/8, paras. 34 and 35. See also European Court of Human Rights, *Ecodefense et al. v. Russia*, Application No. 9988/13 and 60 others, Judgment, 14 June 2022, paras. 89–118 and 659.
[145] Siracusa Principles, principle 1.
[146] *Lee et al. v. Republic of Korea*, (CCPR/C/84/D/1119/2002) para. 7.7.
[147] Siracusa Principles, principle 29. See also general comment No. 37 (2020), para. 42.
[148] Siracusa Principles, principle 33. See also general comment No. 37 (2020), para. 43.
[149] Siracusa Principles, principle 22. See also general comment No. 37 (2020), para. 44.

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and not only hypothetical, danger to the national security or democratic order and that less intrusive measures would be insufficient to achieve this purpose.[150]

47. The protection of "public health or morals or the protection of the rights and freedoms of others" may also be grounds for restricting freedom of association. Under the Siracusa Principles, "public health may be invoked as a ground for limiting certain rights in order to allow a State to take measures dealing with a serious threat to the health of the population or individual members of the population. These measures must be specifically aimed at preventing disease or injury or providing care for the sick and injured."[151]

48. Regarding "public morals", it has been stressed that "since public morality varies over time and from one culture to another, a State which invokes public morality as a ground for restricting human rights, while enjoying a certain degree of discretion, shall demonstrate that the limitation in question is essential to the maintenance of respect for fundamental values of the community".[152] Public morals, as invoked as grounds for a restriction, are not equivalent to social sensibilities. Any such limitations must be understood in the light of the rights to non-discrimination and equality before the law. In this regard, the banning of associations or the criminalization of their activities for obscenity, for disseminating "propaganda" on non-traditional sexual relations among minors or "non-traditional" sexual orientations or for denying family or community values are seen as discriminatory restrictions of the right to freedom of association.[153]

49. The list of legitimate grounds for restriction set out in article 22 (2) is exhaustive. Motives such as those invoked for justifying "foreign agent"[154] or similar laws, such as "public transparency" or "social transparency", misused for targeting associations that receive funds from abroad are not covered by the legitimate goals listed in article 22 (2).[155]

50. To meet the requirement of article 22 (2), a restriction must also be necessary in a democratic society to achieve one of these purposes.[156] The necessity and proportionality requirements must be read in conjunction with article 5 (1), which provides the following: "Nothing in the present Covenant may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms recognized herein or at their limitation to a greater extent than is provided for in the present Covenant."[157] Accordingly, the Covenant prohibits ulterior motives that underpin restrictions on freedom of association.

51. Article 5 (1) of the Covenant prohibits the abuse of rights protected by the Covenant.[158] Therefore, individuals and groups cannot claim the protection of article 22 if they pursue violent and anti-democratic activities or promote war propaganda (article 20(1)), advocacy of national, racial or religious hatred that would constitute incitement to discrimination, hostility or violence (article 20(2)).[159] In this regard, associations cannot be used for hate speech or discriminatory or hostile discourse and actions concerning others,

[150] *Adyrkhayev et al. v. Tajikistan* (CCPR/C/135/D/2483/2014), para. 9.8; *Belyatsky et al. v. Belarus*, para. 7.3; *Lee v. Republic of Korea* (CCPR/C/84/D/1119/2002) para. 7.2. See also *Farah v. Djibouti*, para. 7.8.

[151] Siracusa Principles, principle 25.

[152] Ibid., principle 27. See also general comments No. 22 (1993), para. 8, and No. 37 (2020), para. 46.

[153] CCPR/C/BDI/CO/3, paras. 10 and 11; and CCPR/C/RUS/CO/8, paras. 12 and 13. See also A/HRC/56/49.

[154] In case No 3313, the ILO Committee on Freedom of Association (CFA) considered that in addition to regulations concerning "foreign agents" as applied to trade unions being unjustifiably burdensome to the point of risking to paralyse the functioning of the affected trade unions, the label of foreign agent may negatively affect the image of trade unions and the role they play in the society (see CFA Case No. 3313, 396th Report, October 2021).

[155] CCPR/C/KAZ/CO/3, paras. 53 and 54; and CCPR/C/NIC/CO/4, paras. 33 and 34. See also OSCE Office for Democratic Institutions and Human Rights, "Note on legislative initiatives on transparency".

[156] *Stojkov v. Bulgaria* (CCPR/C/145/D/3717/2020), para. 8.5.

[157] See also general comment No. 34 (2011), para. 21.

[158] *M.A. v. Italy* (CCPR/C/21/D/117/1981), para. 13.3.

[159] See also general comment 37, paras. 19, 50 and Rabat Plan of Action on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence, A/HRC/22/17/Add.4.

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such as migrants, ethnic minorities,[160] women[161] and LGBTQ+ persons[162]. As far as possible, action should be taken in such cases against the individual perpetrators, rather than against the organization as a whole. Participation in associations whose dominant message falls within the scope of article 20 must be addressed in conformity with the requirements for restrictions set out in article 22 and when relevant, articles 19 and 21 of the Covenant.[163]

VI. Freedom of association in contexts of states of emergency, armed conflicts, occupation and humanitarian assistance

52. States Parties' obligations under the Covenant apply not only in peacetime but also during emergency situations, pandemics, situations of aggression, internal and international armed conflicts, occupations,[164] and struggles against non-State groups.[165] The principle of the continuity of States Parties' Covenant obligations in times of conflict and occupation has been consistently reaffirmed in various emergency contexts,[166] including on territories where a State exercises effective control.[167]

53. In emergency situations, the full enjoyment and exercise of civil and political rights are disrupted.[168] However, in those circumstances, it is even more important to preserve core democratic space from the dangers of an overmilitarized and repressive environment. Such a preservation is one of the conditions for restoring and achieving sustainable peace.[169] As the Committee stressed in its statement on derogations from the Covenant in connection with the coronavirus disease (COVID-19) pandemic, access to a civic space where a public debate can be held constitutes one of the important safeguards for ensuring that States Parties resorting to emergency powers comply with their obligations under the Covenant.[170] Therefore, even in emergency contexts, including when States Parties face a threat that endangers the life of the nation, "they must comply with their obligations under international law, in particular their obligations to respect international humanitarian law and international human rights law".[171]

54. While the right to freedom of association is not listed as non-derogable in article 4 (2) of the Covenant, other rights applicable to members of associations, such as those enshrined in articles 6, 7, 15 and 18, including the judicial guarantees of those rights, are non-derogable.[172] In this regard, ensuring access to humanitarian associations that provide

[160] Mutatis mutandis, European Court of Human Rights, *Ayoub et al. v. France*, Application No. 77400/14 and two others, Judgment, 8 October 2020, paras. 84 ff.; European Court of Human Rights, *Vona v. Hungary*, Application No. 35943/10, Judgment of 9 July 2013, paras. 50 ff.

[161] On the gender backlash and the growth of anti-rights movements, see A/HRC/56/51.

[162] On hostile discourse and violent attacks against LGBTQ+ persons, see A/HRC/56/49.

[163] See also general comment No. 37, para. 50 and Rabat Plan of Action on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence, A/HRC/22/17/Add.4, para. 29.

[164] General comments No. 29 (2001), para. 3, No. 31 (2004), para. 11, No. 36 (2018), para. 70, and No. 37 (2020), paras. 96 and 97.

[165] CCPR/C/NER/CO/2, para. 14.

[166] *Bratsylo et al. v. Russian Federation* (CCPR/C/140/D/3022/2017), para. 8.6; CCPR/C/SYR/CO/4, para. 3; CCPR/C/HND/CO/3, para. 9; CCPR/C/PSE/CO/1, para. 3; CCPR/C/ISR/CO/5, paras. 6 and 7; and CCPR/C/NER/CO/2, para. 14.

[167] *D.O. et al. v. Russian Federation*, paras. 8.4 ff.; and *D.O. et al. v. Republic of Moldova* (CCPR/C/139/D/2870/2016), para. 8.4.

[168] See the conference room paper of the Commission on Human Rights in South Sudan on entrenched repression: systematic curtailment of the democratic and civic space in South Sudan, available on the web page of the Commission, at https://www.ohchr.org/en/hr-bodies/hrc/co-h-south-sudan/index.

[169] A/79/182; and CCPR/C/RUS/CO/8, para. 28.

[170] CCPR/C/128/2, para. 2 (f). See also CCPR/C/DEU/CO/7, paras. 36 and 37.

[171] International Court of Justice, *Obligations of Israel in relation to the Presence and Activities of the United Nations, Other International Organizations and Third States in and in relation to the Occupied Palestinian Territory*, Advisory Opinion, 22 October 2025, para. 90. See also Working Group on Arbitrary Detention, *Hammouri v. Israel* (A/HRC/WGAD/2023/13), paras. 59–65.

[172] CCPR/C/TUR/CO/2, paras. 15–18. See also Inter-American Court of Human Rights, *Cuéllar Sandoval et al. v. El Salvador*, judgement, 18 March 2024, paras. 77–81.

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humanitarian relief raises issues not only with regard to the activities of the associations covered by article 22 but also with regard to the right to life of the beneficiaries of humanitarian aid.[173]

55. If States Parties derogate from article 22 as a response to such a situation, they must respect the strict legal framework established by article 4 of the Covenant and interpreted by the Committee in its general comment No. 29 (2001). They must ensure that all measures derogating from their obligations under the Covenant are strictly required by the exigencies of the situation[174] and comply with the conditions set out in article 4, including immediate notification to the Secretary-General, clear justification of the scope of the derogations with complete documentation of any laws adopted,[175] the strict limitation of the duration, geographical coverage and material scope of the derogations and their necessity and proportionality to the situation,[176] and the absolute prohibition of discriminatory measures.[177]

56. In addition, article 4 requires that the derogating measures respect the States Parties' other obligations under international law. In the context of the right to freedom of association of humanitarian non-governmental organizations performing relief and life-saving activities, this means that States Parties should take into consideration the relevant norms of international humanitarian law, such as those governing the access of the civilian population to basic supplies.[178] It also means that, with regard to workers' and employers' rights, States Parties should take due consideration of their obligations under the relevant ILO Conventions, especially, bearing in mind the explicit reference contained in article 22(3), ILO Convention No. 87, which applies at all times.[179]

VII. Relationship between article 22 and other international legal regimes

57. In addition to the close relationship that the right to freedom of association has with international labour law, as referred to in article 22 (3), and with international humanitarian law, as implicitly mentioned in article 4 of the Covenant, States Parties' obligations under this right are also closely connected to and must be read in harmony with other universal, and regional regimes that are binding on the States Parties to the Covenant.[180] For example, when maritime search and rescue operations and humanitarian assistance provided by associations and non-governmental organizations are at stake, States Parties' obligations under the law of the sea and maritime search and rescue instruments might be relevant.[181] In the same vein,

[173] See International Court of Justice, *Obligations of Israel in relation to the Presence and Activities of the United Nations, Other International Organizations and Third States in and in relation to the Occupied Palestinian Territory*, paras. 104 ff. and 127.

[174] *López Burgos v. Uruguay*, para. 11.6.

[175] CCPR/C/128/2, para. 2 (a).

[176] Ibid., para. 2 (b).

[177] Ibid., para. 2 (d). See also CCPR/C/ECU/CO/7, paras. 9 and 10.

[178] Geneva Convention relative to the Protection of Civilian Persons in Time of War, arts. 55, 56 and 59. See also International Court of Justice, *Obligations of Israel in relation to the Presence and Activities of the United Nations, Other International Organizations and Third States in and in relation to the Occupied Palestinian Territory*, paras. 91 ff.

[179] "Application of International Labour Standards in times of crisis: the importance of international labour standards and effective and authoritative supervision in the context of the COVID-19 pandemic", in *Application of International Labour Standards 2021: Addendum to the 2020 Report of the Committee of Experts on the Application of Conventions and Recommendations* (Report III/Addendum (Part A)), International Labour Conference, 109th Session, 2021, para. 52; in its 2025 observation on the application of ILO Convention No 87 by Ukraine, the CEACR recalled that "the Convention contains no provisions allowing the invocation of a state of emergency to justify exemption from the obligations arising under it or any suspension of their application. This is also and especially true for restrictions on civil liberties that are essential to the proper exercise of trade union rights, except in circumstances of extreme gravity and on condition that any measures affecting the application of the Convention are limited in scope and duration to what is strictly necessary to deal with the situation in question".

[180] International Court of Justice, *Obligations of States in respect of Climate Change*, para. 165.

[181] *A.S. et al. v. Malta* (CCPR/C/128/D/3043/2017), para. 6.6; and *A.S. et al. v. Italy*, para. 7.6.

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international refugee law might be relevant when dealing with the right of refugees to freedom of association,[182] as well as international environmental law,[183] or international economic law, especially international financial regulations.[184]

58. Moreover, as far as the interrelation between States' obligations under article 22 of the Covenant and under the Charter of the United Nations is concerned, in the case of international sanctions decided upon by the Security Council on the basis of Chapter VII of the Charter, the Security Council decided, in its resolution 2664 (2022), to exempt humanitarian organizations and their members from the freezing of funds and other financial assets or economic resources.[185]

VIII. Safeguards and prohibition of retrogression

59. Under article 5 (2) of the Covenant: "There shall be no restriction upon or derogation from any of the fundamental human rights recognized or existing in any State Party to the present Covenant pursuant to law, conventions, regulations or custom on the pretext that the present Covenant does not recognize such rights or that it recognizes them to a lesser extent." Moreover, article 22 (3) explicitly provides for such a safeguard in favour of ILO Convention No. 87. Insofar as the Covenant is a living instrument,[186] the safeguard extends to the ILO conventions and norms drafted after the adoption of the Covenant that complement ILO Convention No. 87, in particular ILO Convention No. 98. These provisions reflect the most-favourable-law and *pro persona* principles.[187] Applying these principles to the right to freedom of association, when States Parties have parallel and coexisting international obligations, they have the duty to accord primacy to the highest standards of human rights protection.

60. In addition, to achieve the full realization of the right to freedom of association pursuant to articles 2 and 22 of the Covenant,[188] States Parties should refrain from adopting retrogressive measures or introducing new barriers[189] and de jure or de facto obstacles to the enjoyment and exercise of freedom of association. Any retrogressive measure must be carefully justified by States Parties and must fully meet all the conditions of legality, legitimacy, necessity, proportionality and judicial guarantees set out in the previous sections.[190]

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[182] Convention relating to the Status of Refugees, art. 15.

[183] For instance, Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean (Escazú Agreement), arts. 4 (6), 9 (2) and 10 (2) (f); and Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (Aarhus Convention), art. 3 (4).

[184] In particular, those dealing with anti-money-laundering measures. See above, paras. 30, 44.

[185] Para. 1 of the UNSC Resolution 2664 (2022). See also by analogy *Sayadi and Vinck v. Belgium* (CCPR/C/94/D/1472/2006), paras. 10.4 ff.

[186] *Roy et al. v. Australia*, para. 8.14.

[187] See also International Covenant on Economic, Social and Cultural Rights, art. 5 (2); Constitution of the International Labour Organization, art. 19 (8); European Convention on Human Rights, art. 53; Arab Charter on Human Rights, art. 29 (2); and African Commission on Human and Peoples' Rights, Guidelines on Freedom of Association and Assembly in Africa, fundamental principle x (more protective standard). For implementation, see Inter-American Court of Human Rights, *Lagos del Campo v. Peru*, Judgment, 31 August 2017, Preliminary objections, merits, reparations and costs, para. 139; and African Commission on Human and Peoples' Rights, *Working Group on Strategic Judicial Files v. Democratic Republic of Congo*, Petition No. 259/02, Decision, 20–24 July 2011, para. 68.

[188] General comment No. 31 (2004), para. 13.

[189] General comment No. 36 (2018), para. 8; and Inter-American Court of Human Rights, *Climate Emergency and Human Rights*, Advisory Opinion AO-32/25, 29 May 2025, para. 222.

[190] See CESCR. General Comment No. 3 (1990), para. 9.