#

BELGRADE CENTRE FOR HUMAN RIGHTS

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**HUMAN RIGHTS COMMITTEE**

*Call for Comments*:

General Comment No. 37

Article 21: Right of Peaceful Assembly

Belgrade Centre for Human Rights (BCHR) is one of the oldest NGOs in Serbia, established and run by a group of human rights experts. BCHR's mission is to study human rights, disseminate knowledge and promote democracy and rule of law. Advancement of theory, legislation and practice of human rights remain in the focus of the BCHR's activities, both nationally and internationally. Belgrade Centre for Human Rights takes this opportunity to highlight to the Human Rights Committee certain issues pertaining to the right of peaceful assembly. We consider these matters to be relevant for the upcoming revision of the General Comment No. 37 and we believe that these matters should be noted in the Revised Draft.

1. We believe that it would be in the spirit of international human rights law to add an additional sentence to the paragraph 8 of the revised draft of the General Comment No. 37. The paragraph in question should read:

...The right of peaceful assembly is not absolute, but any restrictions must be narrowly drawn. **States must ensure that the right to organize peaceful assembly is not restricted by any undue bureaucratic obligations.** There are, in effect, limitations on the limitations that may be imposed.

2. At the end paragraph 23, the following sentence should be added:

...**The burden of proof of participants' violent conduct or intentions lies with the authorities of the State**. **If the State authorities impose restrictions on the grounds of violent intentions, but fail to prove violent intentions, Article 21 is violated.**

3. Paragraph 87 should set an additional standard with the goal to provide the assembly be "within sight and sound" and read as follows:

Where the presence of law enforcement officials is required, the policing of an assembly should be planned and conducted with the intention of enabling the assembly to take place as planned, and with a view to minimizing the potential for injury to any person and damage to property.[[1]](#footnote-1) **However,** **authorities should refrain from over-policing the assembly, using only as many police officers it is necessary to ensure the public order and to minimise disruptions. Using more police officers than necessary might give the impression that assembly takes risk to public security, thus opening the question in general public about ideas and messages that participants want to take attention to. Over-policing can have a chilling effect to participants of an assembly as well, making them feel uncomfortable and reluctant to further participate in assemblies and enjoy their rights.**

In appreciation, Belgrade,

 20 February 2020

Belgrade Centre for Human Rights

1. A/HRC/31/66, para. 37. [↑](#footnote-ref-1)