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**Comments on the draft General Comment No. 37 on article 21 of the International Covenant on Civil and Political Rights – the right of peaceful assembly**

The Government of Denmark takes this opportunity to thank the Human Rights Committee for its draft General Comment No. 37 on the right of peaceful assembly. Denmark welcomes the elaborate work that has gone into this draft General Comment concerning a right of fundamental importance.

Denmark further welcomes this opportunity to provide comments on the draft and looks forward to a continuing discussion. Below, please find general observations followed by comments related to individual paragraphs.

**General observations**

In general, we note that the draft comments take a ”content neutral” approach, cf. paragraphs 25 and 54. However, some passages, e.g. paragraphs 36 and 114, could possibly be read as supporting a higher or lower level of protection to certain assemblies depending on their content. Therefore, we would like to stress that we – without prejudice to the interplay with and protection flowing from other rights and freedoms – understand the “content neutral” approach as the guiding principle when it comes to interpreting article 21.

**Comments related to individual paragraphs**

We suggest modifying the wording of the third sentence of paragraph 19 to: “~~Moreover, i~~Isolated acts of violence by some participants should not be attributed to other participants *or the assembly as such*.”. Reference is made to the focus on the assembly as such in the foregoing paragraphs.

Against the background of the protection of freedom of speech in the Danish Constitutional Act, Denmark made a reservation to Article 20(1) when ratifying the Covenant. In our view, the inclusion of a reference to the obligations under Article 20 in a draft General Comment regarding Article 21 widens the scope of the obligations enshrined in Article 21 in a way that runs contrary to the Danish reservation. Thus, we cannot support paragraph 22 (option 1) and paragraph 57 and suggest that they are deleted.

We support the considerations made in paragraph 31. As regards the bracketed words, we suggest to use the word “appropriate” since the word “possible” leaves the impression that there are no limits at all for the measures that the State is obliged to utilize to protect assembly participants.

We agree with the statement that the wearing of face coverings or other disguises by assembly participants, such as hoods or masks, may form part of the expressive element of a peaceful assembly. However, we are concerned that the wording of paragraph 70 is too restrictive in light of the challenges that domestic police face when investigating violence committed by individual perpetrators. We propose a rephrasing of paragraph 70 so as to make clear that face covering bans must not restrict the use of e.g. face coverings or other disguises by assembly participants when the disguise has a commendable purpose. On that basis, it is also suggested not to use the phrase “blanket bans can only be justified on an exceptional basis.”

We recognize that notification systems can be misused to stifle peaceful assemblies and therefore support the statement in paragraph 81 that a failure to notify the authorities should not in itself be used as a basis for dispersing the assembly. However, we find that the statement in paragraph 82 that “assemblies should be excluded from notification regimes where the impact of the assembly on others can reasonably be expected to be minimal for example because of the nature, location or limited size or duration of the assembly” may be challenging in practice. An exclusion of certain assemblies from a notification system leaves it to the leaders or organizers of an assembly to assess whether the assembly is covered by the exclusion. As a consequence, the authorities may not get the opportunity to facilitate the smooth conduct of the assembly and protect the rights of others.