

# The Right to Freedom of Association

## Best Practices Fact Sheet



### Does my association need to be registered?

No

The right to freedom of association equally protects associations that are registered and unregistered. Individuals involved in unregistered associations should be free to carry out any lawful activities, including the right to hold and participate in peaceful assemblies, and should not be subject to criminal sanctions ([A/HRC/20/27](#), p 14, para 56).

### Does the right to freedom of association apply to me?

Yes

It doesn't matter who you are. Article 22 of the [International Covenant on Civil and Political Rights \(ICCPR\)](#) recognizes that the right to freedom of association should be enjoyed by *everyone*, as provided for by of the [Covenant](#) itself (see Art. 2 on non-discrimination) and resolutions [15/21](#), [21/16](#) and [24/5](#) of the Human Rights Council. In resolution [24/5](#), the Council reminded States of their obligation to respect and protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections, and including persons espousing minority or dissenting views or beliefs seeking to exercise or to promote those rights ([A/HRC/26/29](#), p 9, para 22). Legislation should not set any specific limitation on individuals, including children, foreign nationals, ethnic or linguistic minorities, LGBTI individuals, and women, to name a few ([A/HRC/20/27](#), p 14, para 54; [A/HRC/26/29](#), p 6-7, para 18). The right to freedom of association also extends to legal entities, themselves (i.e., two associations which decide to form one organization).

### Does the State have any obligation to promote association rights?

Yes

States are obligated to take positive measures to establish and maintain an enabling environment for the operation of associations. Members of associations must be able to exercise their right to freedom of association without fear that they may be subjected to any threats, acts of intimidation or violence, including harassment, summary or arbitrary executions, arbitrary arrest or detention, torture, media smear campaigns, or travel bans ([A/HRC/20/27](#), p 15-16, para 63). States also have an obligation not to unduly obstruct the exercise of the right to freedom of association. Members of associations should be free to determine their statutes, structure and activities and make decisions without State interference. Associations should enjoy, inter alia, the rights to express opinion, disseminate information, engage with the public and advocate before Governments and international bodies for human rights ([A/HRC/20/27](#), p 16, para 64).

### Can registration be required if I wish to form a legal entity?

Yes

It is acceptable to require some sort of registration in order to create an association that has its own legal personality, but it is vital that Government officials act in good faith and in a timely and non-selective manner. The Special Rapporteur considers as best practice procedures which are simple, non-onerous or even free of charge and expeditious ([A/HRC/20/27](#), p 14, para 57; [A/HRC/RES/22/6](#)). Registration should not be viewed as an exercise in asking permission. Thus, a "notification procedure" (rather than a "prior authorization procedure") to establish an organization should be in force ([A/HRC/20/27](#), p 21, para. 95). Under a notification procedure, associations are automatically granted legal personality as soon as the authorities are notified by the founders that an organization was created. Still, notification should not be a precondition for the existence of an association ([A/HRC/20/27](#), p 15, para 58). Newly adopted laws should not require previously registered associations to re-register ([A/HRC/20/27](#), p 15, para 62).

### Can authorities delay my application indefinitely or reject it without telling me?

No

Registration bodies must be bound to act immediately and laws should set short time limits to respond to submissions. During this period associations should be presumed to be operating legally until it is proven otherwise. Failure to provide a response within a clear and short time limit should result in a presumption that associations are operating legally ([A/HRC/20/27](#), p 15, para 60). Any decision rejecting the submission or application must be clearly motivated and duly communicated in writing to the applicant. Associations whose submissions have been rejected should have the opportunity to challenge the decision before an independent and impartial court ([A/HRC/20/27](#), p 15, para 61).

### Should States treat associations and businesses equitably?

Yes

States should avoid measures that disproportionately target or burden civil society organizations, such as imposing onerous vetting rules, procedures or other association-specific requirements not applied to for-profit entities ([A/HRC/23/39](#), p. 8, para. 24). Registration for an association, for example, should not be significantly more difficult or time-consuming than registration for a for-profit entity ([A/HRC/26/29/Add.2](#), p 14-15, paras 56-58).

### What is an association?

An "association" refers to any group of individuals and/or any legal entities brought together in order to collectively act, express, promote, pursue or defend a field of common interest ([A/HRC/20/27](#), p 13, para 51). Some common types of associations include civil society organizations, clubs, cooperatives, NGOs, religious associations, political parties, trade unions, foundations and online associations ([A/HRC/20/27](#), p 13, para 52).

### What is the right to freedom of association?

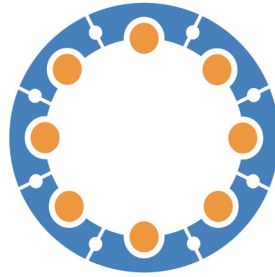
Stated simply, the right to freedom of association protects your right to form or join a group of like minded people to pursue common interests. The group may be formal or informal, and there is no requirement that the association be registered in order for freedom of association rights to apply ([A/HRC/20/27](#), p 14, para 56). No more than two persons should be necessary to establish an association ([A/HRC/20/27](#), p 14, para 54).

### Why is the right to freedom of association so important?

The right to freedom of association is among the most important human rights we possess. It is one of the core rights - along with freedom of peaceful assembly - designed to protect peoples' ability to come together and work for the common good. It is a vehicle for the exercise of many other civil, cultural, economic, political and social rights ([A/HRC/20/27](#), p 5, para 12). The right to freedom of association also plays a decisive role in the emergence and existence of effective democratic systems as they are a channel allowing for dialogue, pluralism, tolerance and broadmindedness, where minority or dissenting views or beliefs are respected ([A/HRC/20/27](#), p 20, para 84).

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Core International Standards

International Covenant on Civil and Political Rights, Article 22:

1. 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.
2. No restrictions may be placed on the exercise of this right other than those which are prescribed by law and which are necessary in a democratic society in the interests of 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 article shall not prevent the imposition of lawful restrictions on members of the armed forces and of the police in their exercise of this right.

See also:

- Int'l Covenant on economic, social and cultural rights: article 8
  - Universal Declaration of Human Rights: Article 20
  - International Convention on the Elimination of All Forms of Racial Discrimination: article 5 (ix)
    - Convention on the Rights of the Child: article 15
- Convention on the Rights of Persons with Disabilities: article 29
- Declaration on Human Rights Defenders (Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms): article 5
  - ILO conventions: No. 87, No. 98, No. 135

Key regional standards:

- African Charter on Human and Peoples' Rights: Article 10
- African Charter on the Rights and Welfare of the Child: Article 8
- American Declaration on the Rights and Duties of Man: article 22
  - American Convention on Human Rights: article 16
  - European Convention on Human Rights: article 11
- Charter of Fundamental Rights of the European Union: article 12

## Does the right to freedom of association include the ability to access resources?

Yes

The ability for associations to seek, receive and use resources from domestic, foreign, and international sources is an integral and vital part of the right to freedom of association ([A/HRC/20/27](#), p 17, para 67; [A/HRC/23/39](#), p 4, para 8). The term "resources" encompasses a broad concept that includes financial transfers, in-kind donations, material resources, human resources, and more ([A/HRC/23/39](#), p 5, para. 10). The receipt of domestic or foreign funding should not be subject to the approval of the authorities ([A/HRC/20/27](#), p 17, para 68), and both registered and unregistered associations should have the freedom to seek and secure funding and resources from domestic, foreign, and international entities ([A/HRC/20/27](#), p 17, para 68). For more detailed information, please see the Special Rapporteur's [general principles on protecting civic space and the right to access resources](#), which was produced jointly with the Community of Democracies.

## Does the right to freedom of association apply online?

Yes

States have an obligation to respect and fully protect association rights online as well as offline ([HRC Resolution 24/5](#)). The Internet, in particular social media, and other information and communication technology, are important tools to facilitate the right to freedom of association in the real world. People also have the right to associate in virtual spaces, to gather online in order to express their opinions ([HRC Resolution 21/16](#)). All States should ensure that Internet access is maintained at all times, including during times of political unrest ([A/HRC/17/27](#), para. 79). Any determination to block online content must be undertaken by a competent judicial authority or a body which is independent of any political, commercial, or other unwarranted influences ([Id.](#)).

## Can authorities interfere in the internal affairs of an association?

No

Authorities must refrain from interfering in the internal affairs of an association and respect associations' right to privacy, as stipulated in article 17 of the [Covenant on Civil and Political Rights](#) ([A/HRC/20/27](#), p 16, para 65). Authorities should not be entitled to: condition decisions and activities of the association; reverse the election of board members; condition board members' decisions on the presence of a Government representative; request associations to submit reports in advance of publication; or request that organizations submit workplans for approval ([Id.](#)). Independent bodies have a right to examine the associations' records as a mechanism to ensure transparency and accountability, but such a procedure should not be arbitrary and must respect the principle of non-discrimination and the right to privacy ([Id.](#)).

## Is combating crime, in and of itself, a legitimate reason to limit association rights?

No

Combating fraud, embezzlement, money-laundering and other crime is a legitimate State interest, but it is not sufficient to simply pursue a legitimate interest. Limitations should also be prescribed by law and "be necessary" in a democratic society. Limitations must be proportionate to the interest to be protected and must be the least intrusive means to achieve the desired objective ([A/HRC/23/39](#), p 8, para. 23; [ICCPR](#), Art. 12).

## Can authorities place special limits on association rights during election periods?

No

Electoral periods are a unique moment in the life of a nation to confirm, and even strengthen, democratic principles. In times of elections, the threshold for imposing restrictions should be higher than usual ([A/68/299](#), p. 10, para. 25). Genuine elections cannot be achieved if the right to freedom of association is curtailed ([A/68/299](#), p 20, para 56). Associations should have the freedom to engage in activities related to the electoral process, whether they are supportive of the Government or not ([A/68/299](#), p 17, para 46).

## Can an association be suspended or dissolved for failure to comply with its reporting obligations or a minor violation of the law?

No

If an association fails to comply with its reporting obligations, such minor violation of the law should not lead to the closure of the association or criminal prosecution of its representative; rather, the association should be requested to promptly rectify its situation ([A/HRC/23/39](#), p 12, para. 38). Suspension and involuntary dissolution of an association should only be possible when there is a clear and imminent danger resulting in a flagrant violation of national law, in compliance with international human rights law. Such measures should also be proportional to the legitimate aim pursued and used only when softer measures would be insufficient ([A/HRC/20/27](#), p 18, para 75). Further, such drastic measures should be taken only by independent and impartial courts ([A/HRC/20/27](#), p 18, para 76).

## Am I entitled to an effective remedy if my association rights are violated?

Yes

States have an obligation to establish accessible and effective complaints mechanisms that are able to independently, promptly and thoroughly investigate allegations of human rights violations or abuses, including those related to association rights ([A/HRC/20/27](#), p 19, para 77). Where the right to freedom of association is unduly restricted, the victim(s) should have the rights to obtain redress and to fair and adequate compensation ([A/HRC/20/27](#), p 19, para 81).