



Permanent Mission
of the Federal Republic of Germany
to the Office of the United Nations and
to the other International Organizations
Geneva



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Note Verbale

The Permanent Mission of the Federal Republic of Germany to the Office of the United Nations and to the other International Organizations in Geneva presents its compliments to the Secretariat of the United Nations (Office of the High Commissioner for Human Rights) and refers to the communication sent by the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on the promotion and protection of human rights in the context of climate change; the Special Rapporteur on the human right to a clean, healthy and sustainable environment; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the situation of human rights defenders; the Independent expert on the promotion of a democratic and equitable international order; the Independent Expert on human rights and international solidarity; the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance and the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism on 18 August 2025, Ref. AL DEU 02/2025.

The Permanent Mission of the Federal Republic of Germany is pleased to transmit herewith the reply of the Government of the Federal Republic of Germany.

The Permanent Mission of the Federal Republic of Germany to the Office of the United Nations and to the other International Organizations in Geneva avails itself of this opportunity to renew to the Secretariat of the United Nations (Office of the High Commissioner for Human Rights) the assurances of its highest consideration.

Geneva, 16 October 2025

To the
Office of the High Commissioner for Human Rights
Palais Wilson
Geneva

Germany's response to the Joint Communication

AL DEU 2/2025

Germany would like to make it very clear that the rights to freedom of expression, of assembly and of association are fundamental legal interests in Germany (as enshrined in the Basic Constitutional Law of the Federal Republic of Germany) which are protected and defended by government authority. However, these freedoms are not unconditional, but instead reach their limits wherever they are directed against the rights of others and violate rules which are necessary for all to live peacefully together in Germany. This applies to all expressions of opinion, all assemblies and all associations, including those in the context of pro-Palestinian protests.

Such expressions, assemblies and associations are of course allowed and possible as long as they remain within the boundaries of general freedom of expression, assembly and association, and as long as they do not violate criminal law, do not call for violence, hate or incitement, or in this context challenge in any form Israel's right to exist. This does not in any way constitute an excessive criminalisation of expression or action during assemblies or a distorted definition of antisemitism. Germany does not see any specific details in your letter to support your assessment. It does not take into account the fact that the overwhelming majority of pro-Palestinian assemblies can take place, and that there are many public expressions of support for the concerns of Palestinians which are not subject to criminal prosecution.

Only a small number of assemblies are prohibited, either because of concrete indications in advance that there will be calls for hate and incitement, in some cases even violence, in the context of these assemblies, and that criminal law will be violated; or because situations have arisen during the assembly which make it impossible to continue due to the conduct of assembly participants.

Since Hamas's terrorist attack on Israel on October 7, 2023, current developments in the Middle East have enormous potential to arouse strong emotions and mobilize Palestinian sympathizers worldwide, including in Germany, to act peacefully. But the situation also serves as a motive and justification for some other actors to commit crimes in Germany. These anti-Israel and anti-Jewish rallies typically consist of a broad spectrum of participants who have

nothing in common except pure hatred of Israel and the Jewish people. The unifying element, or "bridge narrative," is anti-Semitism and anti-Israel sentiment.

In Berlin for example, violent riots and clashes between demonstrators and police forces recently occurred on the occasion of the so-called Palestinian commemoration day "Al-Nakba" (May 15, 2025). The number of participants peaked at 1,100. A police officer suffered serious injuries during the measures and had to be hospitalized. A total of 56 people were arrested.

Overall, it can be stated that the Middle East conflict is being carried into society by the aforementioned groups in a highly aggressive and increasingly violent manner and is being played out on German territory. Nevertheless, the German authorities continue to act with the intention of enabling the assemblies while respecting the principle of proportionality. A ban is the last resort. This approach has been confirmed as legal in several court decisions and in several instances. At the same time, it must be emphasized that, as an expression of a resilient democracy, the police must be able to respond with proportionate countermeasures to aggressive and violent actions by demonstrators who have clearly exceeded the limits of peaceful protest.

The competence and actions of the police in Germany are not arbitrary, but regulated by law. Their legality is comprehensively monitored and controlled by the independent judiciary, both at the federal and state level.

According to Article 8 (1) of the Basic Law, all Germans have the right to assemble peacefully and unarmed without prior notification or permission. Article 8 (2) of the Basic Law states that, for outdoor assemblies, this right may be restricted by law or pursuant to a law. The relevant regulations are found in the federal Act on Assemblies and Processions (Versammlungsgesetz). Since the reform of the federal system in 2006, the power to legislate on matters related to the right of assembly has rested with the federal states. The federal states are responsible for enforcing the laws on assemblies.

According to section 15 of the Act on Assemblies and Processions and the corresponding provisions in the relevant law of the state where the assembly is to take place, an assembly can be banned in advance or dispersed after it has started in the event of an immediate threat to public security. However, banning or dispersing an assembly is always a last resort. If

restrictions, such as certain requirements, are sufficient to counter the immediate threat, then ordering such restrictions takes precedence over imposing a ban. Violations of bans or of obligations under the law on assemblies can be punished as criminal or administrative offences (sections 21 to 29a of the Act on Assemblies and Processions and the corresponding provisions in the relevant law of the state in which the assembly takes place). In exceptional cases, this may also include the use of force by police officers.

Therefore, according to Germany's Basic Law and the corresponding state-level legislation on public assemblies, assemblies may be prohibited in advance, dispersed or subject to restrictions only if and to the degree necessary and appropriate to prevent imminent threats to public security – in particular to prevent criminal offences. This applies particularly to content-related measures which limit freedom of expression and assembly. These measures apply to the use of symbols of associations which have been banned by law in Germany, such as Hamas and Samidoun; the measures are also applied to prevent the use of slogans and chants which incite hate on religious or ethnic grounds. These are slogans and chants which call for people to be killed, injured or taken hostage, or which endorse or glorify such acts of violence. Calls for the destruction of the State of Israel and its inhabitants may also be grounds for bans, as may slogans calling for the use of violence.

All of these measures are grounded in the principles of proportionality and non-discrimination, which must be upheld to the fullest extent by all government authorities.

Germany's national law complies with human rights law and with the international human rights standards and guidance on freedom of expression, hate speech and hate crime, which you rightly emphasise in your letter. All German authorities apply these legal standards and carefully weigh, in each individual case, the rights of the protesters against other groups' human rights to protection against hate speech and violence, as well as against the need to avert threats to public security and the democratic order.

According to our information, demonstrations in Berlin in particular increasingly involve a high level of violence directed at the police by certain persons. Nonetheless, over all fewer than 2 % pro-Palestinian assemblies have been banned in Germany. In some cases, these bans were ignored and participants committed many offences which involved resisting the authorities.

The Federal Republic of Germany has no doubt that the action taken by the authorities in Berlin is proportionate.

With regard to your criticism concerning the application of the International Holocaust Remembrance Alliance (IHRA) working definition of antisemitism, Germany would like to point out that this definition also allows for criticism of Israel and the Israeli government and that such criticism should not be regarded in every case as antisemitic. The German government is not aware of any German authorities that view or apply the definition differently in individual cases.

Please be assured that the Federal Ministry of the Interior is in close contact with all of Germany's federal states and fully supports assemblies which are carried out lawfully and in compliance with human rights. Freedom of expression and of assembly are precious rights. At the same time, however, it is unacceptable when protests do not remain peaceful, or when they increasingly involve violence against people or property or other criminal offences. That applies not only to pro-Palestinian assemblies, but in general.

Regarding bans and restrictions of funding of associations, all measures and investigations taken have to comply with the principle of proportionality and non-discrimination enshrined in the Basic Law and international human rights law as well. All German authorities must act within the bounds of applicable law and must respect these legal restrictions. The principles of proportionality and non-discrimination apply equally to the treatment of associations, e.g. their access to public funding. Each case is examined individually, whereby bans and forced dissolutions of associations are only considered as a last resort. The legality of all measures is comprehensively reviewable before the national courts. Even if fundamental rights are concerned, interference might be justified. The protection of fundamental rights is always limited by the fundamental rights of third parties. Both sides must be weighed carefully. A democracy must be resilient. This also means that a state must be able to take action if, for example, its security is at risk.

Our priority is to ensure that our democratic society is not harmed because basic rules of peaceful co-existence which are important for democracy are violated. Hate speech, incitement, the promotion and use of violence, criminal offences and support for terrorist

organisations are therefore unacceptable. That is something we should all be able to agree on, particularly in the context of upholding human rights and democratic constitutions. With regard to the protests in the context of the Gaza conflict, Germany's historical responsibility makes it especially challenging to guarantee the protesters' freedom of expression and assembly while protecting other groups against hate speech and violence. All of the government authorities are acutely aware of this challenge. But we cannot accept anti-Israel hate speech or calls in our streets for violence against Jews.