



Mykhaylo Shepitko

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Criminal And Legal Investigation Of Violation Of The Right To Assembly And Association Freedom

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Mykhaylo Shepitko,

Doctor of Law, Senior Staff Researcher, Professor of Criminal Law Department of Yaroslav Mudryi National Law University, Kharkiv, Ukraine
ORCID: <https://orcid.org/0000-0002-7164-8037>
Web of Science Researcher ID: AAF-6689-2019
e-mail: shepitko.michael@gmail.com

Criminal And Legal Investigation Of Violation Of The Right To Assembly And Association Freedom

Abstract: Scientific article is devoted to the issues of ensuring and implementing the right to freedom of assembly through the prism of criminal law research. It has been established that this issue has an international and national level. The Council of Europe Convention on Protection of Rights and Fundamental Freedoms and the practice of European Court of Human Rights provide opportunity to expand interpretation of the right to assembly freedom. In the criminal law sense, the right to freedom of assembly is ensured by Art. 340 of the Criminal Code of Ukraine: Illegal obstruction of the organization or holding of meetings, rallies, marches and demonstrations. Separate norms of the Special Part of the Criminal Code of Ukraine legally limit this right. Legal restrictions are contained in the Constitution and Laws of Ukraine. In wartime, this right is subject to limitation, but a reasonable balance of such limitation, obeying foundations of national security, peace, human security, and international legal order, remains important.

Keywords: violation of the right to freedom of assembly, obstruction of organization or holding of assemblies, rallies, marches and demonstrations, criminal liability, obstruction of peaceful assembly, criminal law reform

On January 21, 2022, a month before the start of large-scale Russian military aggression, the issue: of State Policy of Transition Period as a Basis for Reintegration of temporarily Occupied Territories of Ukraine was discussed at Yaroslav Mudryi National Law University. The event was organized by National Academy of Legal Sciences of Ukraine with participation of the Donbas Regional Council on Justice Reform. The discussion subject of was not only the government draft law: On the Principles of State Policy of Transition Period¹, but the need to include “collaborative activity” as a criminal offense in the Criminal Code of Ukraine.

In the report of the secretary-general of the United Nations on the rule of law and transitional justice in conflict and post-conflict societies dated on August 23, 2004 (S/2004/616), transitional justice is defined as: comprising the full range of processes and mechanisms related to the efforts of come to terms with the legacy of massive past abuses to ensure accountability, serve justice and achieve reconciliation. These may include both judicial and non-judicial mechanisms with varying degrees of international involvement (or none at all), as well as individual prosecutions, reparations, truth-seeking, institutional reforms, verification and dismissal, or a combination of these².

¹ Державна політика перехідного періоду як основа реінтеграції тимчасово окупованих територій України: результати круглого столу. Офіційний сайт Харківської обласної військової адміністрації. URL: <https://kharkivoda.gov.ua/news/114124?sv>

² The rule of law and transitional justice in conflict and post-conflict societies. Report of the Secretary-General, S/2004/616, 23 August 2004. Security Council. URL: <https://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/PCS%20S%202004%20616.pdf>



Михайло Шепітько

**КРИМІНАЛЬНО-ПРАВОВЕ
ДОСЛІДЖЕННЯ ПОРУШЕННЯ
ПРАВА НА СВОБОДУ ЗІБРАНЬ
ТА ОБ'ЄДНАННЯ**

The Working Group on Reintegration of Temporarily Occupied Territories of Legal Reform Commission under the President of Ukraine managed to propose the Concept of State Policy for Protection and Restoration of Human Rights and Fundamental Freedoms in the Conditions of Armed Conflict on the Territory of Ukraine and Overcoming its Consequences (Concept of Transitional Justice)³ back in September 2020. However, a few days after a wide discussion at Yaroslav Mudryi National Law University and a month before the large-scale aggressive Russian military invasion of Ukraine, the government draft law: On Principles of State Policy of the Transition Period was canceled due to Russian delegation demand and agreement on possibility of working under the Normandy format⁴.

The discussion that took place came to the point that establishment of criminal responsibility for collaborative activities is the opposite phenomenon compared to the approval of transition period State policy, since one of the ideas of transitional justice is post-conflict reconstruction and reconciliation⁵. At the same time, this discussion with the Russian aggression beginning was resolved in favor of the adoption of changes to the Criminal Code of Ukraine and the inclusion of Art. 111-1: "Collaborative activity" as a criminal offense against foundations of national security⁶. Thus, together with the beginning of large-scale Russian military aggression, of reconciliation and consolidation impossibility of primary justice during hot phase of the war was established as State policy. At the same time, such policy can still play a positive role in solving issues in the post-conflict and post-war period.

Currently, Criminal Code of Ukraine includes Art. 111-1: "Collaborative activity" that has 6 parts and a note of 4 points. According to the statistics of the General Prosecutor's Office, in 2022, 3,851 criminal offenses under this article were registered (of which 1,090 were reported with a report of suspicion, and 620 with an indictment). Collaborative activity in part 1 of Art. 111-1 of Criminal Code of Ukraine is defined as public denial by a citizen of Ukraine of armed aggression against Ukraine, establishing and confirming the temporary occupation of part of the territory of Ukraine, or public appeals by a citizen of Ukraine to support the decisions and/or actions of the aggressor state, armed formations and/or the occupation administration of the state the aggressor, to cooperation with the aggressor state, armed formations and/or occupation administration of the aggressor state, to non-recognition of the extension of the state sovereignty of Ukraine to the temporarily occupied territories of Ukraine. At the same time, in other parts of this article, certain forms of it are provided, related to the performance of certain functions or pseudo-roles — organizational-managerial or administrative and economic functions (Official Duties, Part 2 of Article 111-1), implementation of propaganda and implementation of standards education of the aggressor state in educational institutions (Educational Functions, Part 3 of Article 111-1 of Criminal Code of Ukraine), transfer of material resources (Part 4 of Article 111-1 of Criminal Code of Ukraine), participation in "elections" in occupied territories (Part 5 of Article 111-1 of the Criminal Code of Ukraine), organizing

Анотація: Наукова стаття присвячена проблемам забезпечення та реалізації права на свободу зібрань крізь призму кримінально-правового дослідження. Встановлено, що дана проблема має міжнародний та національний рівень. Конвенція Ради Європи про захист прав та основоположних свобод та практика Європейського суду з прав людини дають можливість розширити тлумачення права на свободу зібрань. У кримінально-правовому сенсі право на свободу зібрання забезпечується ст. 340 КК України «Незаконне перешкоджання організації або проведенню зборів, мітингів, походів і демонстрацій». Окремі ж норми Особливої частини КК України це право легально обмежується. Також легальні обмеження містяться в Конституції та Законах України. У воєнний час дане право також піддається обмеженню, але важливим залишається розумний баланс такого обмеження, яке підкоряється основам національної безпеки, миру, безпеки людства, міжнародного правопорядку.

Ключові слова: порушення права на свободу зібрання, перешкоджання організації або проведенню зборів, мітингів, походів і демонстрацій, кримінальна відповідальність, перешкоджання мирному зібранню, реформа кримінального права

³ Концепція державної політики захисту та відновлення прав людини і основоположних свобод в умовах збройного конфлікту на території України та подолання його наслідків (Концепція перехідного правосуддя). Представництво Президента України в Автономній Республіці Крим. URL: <https://www.ppu.gov.ua/wp-content/uploads/2021/09/Conception.pdf>

⁴ Арахамія пояснив, чому Кабмін відкликав законопроект про перехідний період на Донбасі. Interfax Ukraine. URL: <https://interfax.com.ua/news/general/793666-amp.html?fbclid=IwAR1nUdg8SJ26zotbZo1G2PX3iqGNZ4ZlCzCBzVLyoCMrqNtlhw9efVel0mNM>

⁵ Концепція державної політики захисту та відновлення прав людини і основоположних свобод в умовах збройного конфлікту на території України та подолання його наслідків (Концепція перехідного правосуддя). Представництво Президента України в Автономній Республіці Крим. URL: <https://www.ppu.gov.ua/wp-content/uploads/2021/09/Conception.pdf>

⁶ Див.: Закон України «Про внесення змін до деяких законодавчих актів України щодо встановлення кримінальної відповідальності за колабораційну діяльність» № 2108-IX від 03.03.2022. Офіційний сайт Верховної Ради України. URL: <https://zakon.rada.gov.ua/laws/show/2108-20#n12>



Résumé : L'article scientifique est consacré aux problèmes de garantie et de mise en œuvre du droit à la liberté de réunion à travers le prisme de la recherche pénale. Il a été établi que ce problème à un niveau international et national. La Convention du Conseil de l'Europe sur la protection des droits et des libertés fondamentales et la pratique de la Cour européenne des droits de l'homme offrent l'occasion d'élargir l'interprétation du droit à la liberté de réunion. Au sens pénal, le droit à la liberté de réunion est garanti par l'article 340 du Code pénal ukrainien : "Entrave illégale à l'organisation ou à la tenue de réunions, rassemblements, marches et manifestations". Des normes distinctes de la partie spéciale du Code pénal ukrainien limitent légalement ce droit. En outre, des restrictions légales sont contenues dans la Constitution et les lois de l'Ukraine. En temps de guerre, ce droit est également soumis à limitation mais un équilibre raisonnable de cette limitation, qui obéit aux fondements de la sécurité nationale, de la paix, de la sécurité humaine et de l'ordre juridique international reste important. Mots clés : violation du droit à la liberté de réunion, entrave à l'organisation ou à la tenue d'assemblées, de rassemblements, de marches et de manifestations, responsabilité pénale, entrave à une réunion pacifique, réforme du droit pénal

and conducting events of a political nature, carrying out information activities (Part 6 of Article 111-1 of Criminal Code of Ukraine), holding a position in illegal judicial, law enforcement bodies or in the armed forces of the state of the aggressor (Part 7 of Article 111-1 of Criminal Code of Ukraine), as well as an aggravating factor: commission of 5-7 Art. 111-1 of Criminal Code of Ukraine of actions or decision-making that led to the death of people or the occurrence of other serious consequences (Part 8 of Article 111-1 the Criminal Code of Ukraine).

Part 6 of this norm attracts special attention stating that "the organization and conduct of events of a political nature, the implementation of informational activities in cooperation with the aggressor state and/or its occupation administration, aimed at supporting the aggressor state, its occupation administration or armed formations and/or to avoid its responsibility for armed aggression against Ukraine, in the absence of signs of treason, active participation in such activities." Points 2 and 3 of the notes to Art. 111-1 of the Criminal Code of Ukraine indicate that "events of a political nature are congresses, gatherings, meetings, marches, demonstrations, conferences, round tables, etc." and "implementation of information activities is understood as the creation, collection, receipt, storage, use and dissemination of relevant information".

In this context, it is necessary to agree with O. O. Kravchuk and M. S. Bondarenko, who note that "these offenses are voluminous, as they cover not only the conduct of events of a political and informational nature, but also active participation in such events, these are actually management/directing actions of the so-called "mass meeting"⁷. In fact, this approach leads to a legal restriction of freedom of assembly and association. It should be mentioned that legal restriction of this right is possible, which is emphasized in certain Laws of Ukraine and the Convention of the Council of Europe on the Protection of Human Rights and Fundamental Freedoms.

Ukrainian Constitution declares in Ukraine that social life in Ukraine is based on the principles of political, economic and ideological pluralism (Article 15), specifying that no ideology can be recognized by the state as mandatory, censorship is prohibited, and the state guarantees freedom of political activity, not prohibited by the Constitution and laws of Ukraine. Continuation of this obviously democratic vector of Ukraine is that everyone is guaranteed the right to freedom of thought and speech, to free expression of their views and beliefs (Article 34 of the Constitution of Ukraine) and everyone has the right to freely collect, store, use and disseminate information orally, in writing or in another way at his/her own choice. In Art. 39 of the Constitution of Ukraine declares that citizens have the right to assemble peacefully, without weapons, and hold meetings, rallies, marches and demonstrations, the executive authorities or local self-government bodies are notified of their holding in advance⁸.

In fact, the continuation of this position is ratification of European Court of Human Rights (ECtHR) and recognition of European Court of Human Rights (ECtHR) practice as a source of law in Ukraine⁹. Article 11 of the Convention establishes that everyone has the right to freedom of peaceful assembly and freedom of association with others, including the right to form and join trade unions for the protection of his interests. Moreover, "exercise of these rights shall not be subject to any restrictions with exception of those established by law and necessary in a democratic society in the interests of national or

⁷ Кравчук О. О., Бондаренко М. С. Криміналізація колабораціонізму в Україні. The Russian-Ukrainian War (2014–2022): Historical, Political, Cultural-educational, Religious, Economic and Legal Aspects: collective scientific monograph. 2022. Рига: Baltic Publishing, 2022. С. 1191.

⁸ Статті 15, 34 Конституції України. Офіційний сайт Верховної Ради України. URL: <https://zakon.rada.gov.ua/laws/show/254к/96-вр#Text>

⁹ Див. ст. 17 Закону України «Про виконання рішень та застосування практики Європейського суду з прав людини». Офіційний сайт Верховної Ради України. URL: <https://zakon.rada.gov.ua/laws/show/3477-15#Text>



Mykhaylo Shepitko

**STRAF- UND RECHTLICHE
ERMITTLUNG WEGEN
VERLETZUNG DES RECHTS
AUF VERSAMMLUNGS- UND
VEREINIGUNGSFREIHEIT**

Zusammenfassung: Der wissenschaftliche Artikel widmet sich der Problematik der Gewährleistung und Durchsetzung des Rechts auf Versammlungsfreiheit durch das Prisma der Strafforschung. Es wurde festgestellt, dass dieses Problem auf internationaler und nationaler Ebene. Die Konvention des Europarats zum Schutz der Grundrechte und -freiheiten und die Praxis des Europäischen Gerichtshofs für Menschenrechte bieten eine Gelegenheit, die Auslegung des Rechts auf Versammlungsfreiheit zu erweitern. Im strafrechtlichen Sinne wird das Recht auf Versammlungsfreiheit per Artikel 340 des Strafgesetzbuches der Ukraine: „Rechtswidrige Behinderung der Organisation oder Abhaltung von Versammlungen, Kundgebungen, Märschen und Demonstrationen“. Getrennte Normen des besonderen Teils des Strafgesetzbuches der Ukraine schränken dieses Recht gesetzlich ein. Darüber hinaus sind gesetzliche Beschränkungen in der Verfassung und den Gesetzen der Ukraine enthalten. In Kriegszeiten ist dieses Recht ebenfalls eingeschränkt, aber ein vernünftiger Ausgleich dieser Einschränkung, der den Grundlagen der nationalen Sicherheit, des Friedens, der menschlichen Sicherheit und der internationalen Rechtsordnung gehorcht, bleibt wichtig. Schlagworte: Verletzung des Rechts auf Versammlungsfreiheit, Behinderung der Organisation oder Abhaltung von Versammlungen, Kundgebungen, Aufmärschen und Demonstrationen, Strafbarkeit, Behinderung friedlicher Versammlung, Strafrechtsreform

public security, for prevention of riots or crimes, for the protection of health or morals, or for the protection of rights and freedoms other persons This article does not prevent the introduction of legal restrictions on the exercise of these rights by persons who are part of the armed forces, police or administrative bodies of the state”¹⁰.

ECtHR practice determined that “right to freedom of peaceful assembly is a fundamental right in a democratic society and, like the right to freedom of expression, is one of the foundations of such a society. Thus, it is not subject to restrictive interpretation (Djavit An v. Turkey, § 56; Kudrevicius and Others vs. Lithuania [B], § 91)”¹¹. Moreover, “protection of opinions and freedom of expression is one of the goals of freedom of assembly and association, enshrined in Article 11 (Freedom and Democracy Party (ÖZDEP) v. Turkey), § 37 Despite its autonomous role and special scope, Article 11 must also be considered in the light of Article 10 (Freedom of expression) where the purpose of exercising freedom of assembly is the expression of personal opinions (Ezelin vs. France, § 37), as well as the need to create a forum for public debate and open expression of protest (Éva Molnár vs. Hungary, § 42). The connection between Article 10 and Article 11 is particularly important when authorities have interfered with the right to freedom peaceful assemblies in response to the opinions expressed or statements made by the participants of the demonstration or members of the association (Primov and Others v. Russia, § 92; Stankov and the United Macedonian Organization Ilinden vs. Bulgaria (Stankov and the United Macedonian Organization Ilinden vs. Bulgaria), § 85)”¹².

Thus, in accordance with the provisions of the Constitution of Ukraine, European Convention on Human Rights (ECHR) and practice of the European Court of Human Rights, freedom of thought, freedom of expression, and freedom of assembly and association must be considered comprehensively as interconnected freedoms.

While considering limitations of the right to freedom of assembly in the practice of the ECtHR, it is noted that such a right is not absolute: “it can be limited, in accordance with Clause 2 of Art. 11 of the Convention. Interference with the exercise of this right does not require a direct absolute legal or factual prohibition, but may consist of other various measures taken by the authorities (Kudrevicius and Others v. Lithuania (Kudrevicius and Others vs. Lithuania) [B], § 100)”¹³. At the same time, such a ban currently exists in Ukraine, in Clause 8, Part 1, Art. 8 of the Law of Ukraine: *On Legal Regime of Martial Law* provides that in Ukraine or in some of its localities, where martial law has been imposed, the military command together with military administrations (in the case of their formation) may independently or with the involvement of executive authorities, the Council of Ministers of the Autonomous of the Republic of Crimea, local self-government bodies to introduce and carry out, within the limits of temporary restrictions on the constitutional rights and freedoms of a person and citizen, as well as the rights and legal interests of legal entities, provided for by the decree of the President of Ukraine on introduction of martial law, such measures of the legal regime

¹⁰ Конвенція Ради Європи про захист прав людини і основоположних свобод. Офіційний сайт Верховної Ради України. URL: https://zakon.rada.gov.ua/laws/show/995_004#Text

¹¹ Посібник за статтею 11 Конвенції про захист прав людини та основоположних свобод. URL: https://unba.org.ua/assets/uploads/75f3bb7ffb475097735f_file.pdf ; Guide on Article 11 of the European Convention on Human Rights. URL: https://www.echr.coe.int/Documents/Guide_Art_11_ENG.pdf

¹² Посібник за статтею 11 Конвенції про захист прав людини та основоположних свобод. URL: https://unba.org.ua/assets/uploads/75f3bb7ffb475097735f_file.pdf ; Guide on Article 11 of the European Convention on Human Rights. URL: https://www.echr.coe.int/Documents/Guide_Art_11_ENG.pdf

¹³ Посібник за статтею 11 Конвенції про захист прав людини та основоположних свобод. URL: https://unba.org.ua/assets/uploads/75f3bb7ffb475097735f_file.pdf ; Guide on Article 11 of the European Convention on Human Rights. URL: https://www.echr.coe.int/Documents/Guide_Art_11_ENG.pdf

**POSTĘPOWANIE KARNE
I SPRAWNE W SPRAW
NARUSZENIA PRAWA DO
WOLNOŚCI ZGROMADZAŃ I
Zrzeszania się**

Streszczenie: Artykuł naukowy poświęcony jest problematyce gwarantowania i realizacji prawa do wolności zgromadzeń przez pryzmat badań penalnych. Ustalono, że problem ten ma zasięg międzynarodowy i krajowy. Konwencja Rady Europy o ochronie podstawowych praw i wolności oraz praktyka Europejskiego Trybunału Praw Człowieka dają szansę na poszerzenie interpretacji prawa do wolności zgromadzeń. W sensie karnym prawo do wolności zgromadzeń gwarantuje art. 340 Kodeksu karnego Ukrainy: „Bezprawne utrudnianie organizacji lub przeprowadzania zgromadzeń, wieców, pochodów i demonstracji”. Odrębne normy części specjalnej Kodeksu karnego Ukrainy prawnie ograniczają to prawo. Ponadto ograniczenia prawne zawarte są w Konstytucji i ustawach Ukrainy. W czasie wojny prawo to również podlega ograniczeniom, ale istotna pozostaje rozsądna równowaga tego ograniczenia, będąca w zgodzie z podstawami bezpieczeństwa narodowego, pokoju, bezpieczeństwa ludzi oraz międzynarodowego porządku prawnego. Słowa kluczowe: naruszenie prawa do wolności zgromadzeń, utrudnianie organizacji lub przeprowadzania zgromadzeń, wieców, pochodów i demonstracji, odpowiedzialność karna, utrudnianie pokojowych zgromadzeń, reforma prawa karnego

of martial law to prohibit the holding of peaceful assemblies, rallies, marches and demonstrations, other mass events.

It should be remembered about other prohibitions and restrictions on freedom of assembly and freedom of thoughts and expression of views, which are provided for in the Criminal Code of Ukraine: 1) public calls for violent change or overthrow of the constitutional order or for the seizure of state power, as well as distribution of materials with calls for such actions (Part 2 of Article 109 of Criminal Code of Ukraine); 2) public appeals or distribution of materials with appeals to commit actions, committed with the aim of changing the borders of the territory or the state border of Ukraine in violation of the procedure established by Constitution of Ukraine (Part 1, Article 110 of the Criminal Code of Ukraine); 3) public calls to commit a terrorist act (Article 258-2 of the Criminal Code of Ukraine); 4) financing of terrorism (Article 258-5 of the Criminal Code of Ukraine); 5) group violation of public order (Article 293 of the Criminal Code of Ukraine); 6) mass riots (Article 294 of the Criminal Code of Ukraine); 7) calls to commit actions that threaten public order (Article 295 of Criminal Code of Ukraine); 8) propaganda of war (Article 436 of the Criminal Code of Ukraine); 9) public calls for genocide (Part 2 of Article 442 of the Criminal Code of Ukraine), etc.

Art. 340 of Criminal Code of Ukraine: *Illegal obstruction of the organization or holding of meetings, rallies, marches and demonstrations*. In Art. 39 of the Constitution of Ukraine explicitly stipulates those restrictions on the exercise of the right to peaceful assembly may be established by the court in accordance with the law and only in the interests of national security and public order - in order to prevent riots or crimes, to protect public health or to protect the rights and freedoms of other people. It is clear that the state of war and the restrictions provided for in the Criminal Code of Ukraine are of a dominant nature and do not require additional mechanisms for their implementation. However, in other cases, the court may limit such right.

Key interpretation of Art. 340 of Criminal Code of Ukraine: *Illegal obstruction of the organization or conduct of meetings, rallies, marches and demonstrations* in this sense is precisely the illegal character of obstruction of the organization or conduct of meetings, rallies, marches and demonstrations. It is also important to indicate the possibility of criminal liability only by an official or with the use of physical violence, which indicates the increased nature of public danger. At the same time, it is considered illegal “such obstruction, which is committed without reason, that is, contrary to the requirements of the law. For example, an official gives an instruction to disperse a meeting, despite the fact that it is being held in accordance with the established order. A mandatory feature of this criminal offense is that the obstruction comes either from an official or from other persons who use physical violence”¹⁴. In this context, one should also agree with R. S. Melnyk regarding the existence of a presumption in favor of holding the meeting. “Since the right to freedom of peaceful assembly is one of the fundamental rights, its implementation should be ensured without any regulation, if possible. Everything that is not expressly prohibited by law must be considered permitted, and persons who wish to assemble together should not be required to obtain permission to hold an assembly. The legislation must clearly and unambiguously establish the presumption in favor of freedom of assembly”¹⁵. Ensuring this right must comply with the principles of legality, proportionality, non-discrimination, proper administration and responsibility

¹⁴ Гуторова Н. О., Зайцев О. В. Кримінальні правопорушення, пов'язані із перешкоджанням діяльності організацій та громадських об'єднань. Кримінальне право України: Особлива частина: підручник. За ред. В. Я. Тація, В. І. Борисова, В. І. Тютюгіна. Харків: Право, 2020. С. 520.

¹⁵ Мельник Р. С. Право на свободу мирних зібрань: теорія і практика. Київ, 2015. С. 21.



of administrative bodies¹⁶. At the same time, it is important to clarify this approach by the fact that the specified principles must be used in peacetime, and in wartime must somehow obey the conditions of national security, the actual possibility of holding peaceful assemblies and the exercise of the right to freedom of assembly.

Thus, violation of the right to freedom of assembly has an international and national level. The Council of Europe Convention on the Protection of Rights and Fundamental Freedoms and practice of the European Court of Human Rights provide opportunity to expand interpretation of the right to freedom of assembly. In the criminal legal sense, the right to freedom of assembly is ensured by Art. 340 of the Criminal Code of Ukraine. Separate norms of the Special Part of the Criminal Code of Ukraine legally limit this right (Part 2 of Article 109, Part 1 of Article 110, Article 258-2, Article 258-5, Article 293, Article 294, Article 295, Article 436, Part 2 of Article 442 of the Criminal Code of Ukraine). Legal restrictions are contained in Constitution and Laws of Ukraine. In wartime, this right is also subject to limitation, but a reasonable balance of such limitation, which obeys the foundations of national security, peace, human security, and international legal order, remains important. It should be noted positive trend of ensuring this right to freedom of assembly, since the draft of new Criminal Code of Ukraine contains a similar, but broader norm (Article 4.11.6: *Interfering with a peaceful assembly*) that is not limited to the activities of official duties, but provides for a mandatory sign of physical or mental violence¹⁷.

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