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Title: **Defending the Right to Protest**

Tabled by: Green Party of England and Wales

The right to protest is a cornerstone of democracy. It is the means by which ordinary people speak truth to power, challenge injustice, and demand accountability. Yet worldwide, governments increasingly restrict freedom of expression and peaceful assembly, undermining people's ability to freely protest.

Over the past decade, more than two-thirds of the world's population (5.6 billion people across 77 countries) have seen their freedom of expression curtailed, while only 4% (300 million across 15 countries) have seen it improved. This means that for every one person who has gained greater freedom of expression, nineteen have seen that freedom diminished.

The European Green Party believes that freedom of expression and peaceful assembly are among the most fundamental rights in any democratic society. Freedom of expression allows people to communicate ideas and opinions, while freedom of assembly enables them to express those views collectively, publicly, and with greater political impact. Together, they form the foundation of the right to protest.

In defence of the right to protest across Europe, and reaffirming its 2020 Resolution on the Right to Protest, the Members of the European Green Party agree that:

1. Everyone should have the right to freedom of expression and assembly, regardless of nationality or immigration status.

2. These rights protect the freedom to organise and participate in protests, demonstrations, rallies, strikes, vigils, and pickets, without fear of government interference, censorship, or retaliation.

3. They include the freedom to engage in provocative, critical, offensive, or even disturbing speech, as well as peaceful acts of civil disobedience (sit-ins, occupations, media stunts, protest camps, and acts of non-cooperation) that may breach domestic law.

4. This means that forms of expression should not be criminalised solely because they are controversial, offensive, shocking, or unpopular.

5. Expression that is gratuitously offensive, promotes hatred or violence based on intolerance, or violates the fundamental rights and freedoms of others does not enjoy protection.

6. Restrictions on protests must always be justifiable under international human rights law, starting with the state's obligation *not* to interfere with the right.

7. The ability to protest is a right, not a privilege.

8. Restrictions must never stifle peaceful assemblies and should be imposed only if proportionate, necessary, and the least restrictive means of protecting national security, public safety, public health, or others' rights and freedoms.

9. Dispersal powers or force should be limited to situations where they are strictly necessary, proportionate to a legitimate public order objective, and used only as a last resort when an assembly becomes violent or poses a severe and imminent risk.

10. The use of facial recognition surveillance technology in policing protests is incompatible with human rights and undermines privacy rights.

11. Academic institutions should foster open, respectful debate free from censorship, intimidation, discrimination, and undue interference with lawful expression, research, protest, and discussion.

12. A free and pluralistic media is essential to informed democratic participation.

13. Journalists should be able to cover demonstrations freely, without fear of intimidation, violence, or prosecution.

Demands

Accordingly, the European Green Party and its Member Parties support the following actions:

1. Ensuring the right to protest remains accessible, safe and free from intimidation for all;

2. Promoting dialogue, mutual understanding, and intercultural exchange in public life, and meaningful participation of civil society organisations in public debate;

3. Opposing government interference in media or broadcasting that suppresses dissent;

4. Statutorily recognising civil disobedience as a legitimate form of democratic participation and political expression at local and European levels;

5. Encouraging Green leaders to observe or participate in protests and acts of civil disobedience;

6. Safeguarding pluralism, promoting respectful debate and exchange within the Party, and protecting the right of Members to express lawful dissent amongst its membership in line with the EGP Charter;

7. Establishing a European legal framework on the right to protest, with effective sanctions for states' non-compliance, and broadened application of Article 4(1) of the Rule of Law Conditionality Mechanism to address persistent violations;

8. Applying the Rabat Plan of Action's six-part threshold test to hate speech

or incitement;

9. Guaranteeing independent judicial oversight of protest restrictions and effective legal remedies for rights violations;

10. Using international guidance on policing protests, including the UN's Model Protocol for Law Enforcement Officials to Promote and Protect Human Rights in the Context of Peaceful Protests;

11. Opposing blanket prohibitions on protests near public institutions or government buildings, except where narrowly tailored, evidence-based, and necessary to address a specific,immediate threat to public safety;

12. Opposing the use of excessive criminal penalties and the discriminatory application of terrorism-related provisions to punish, deter, or suppress protests and non-violent direct action;

13. Condemning the use of facial recognition technology, mass surveillance, arbitrary detention, excessive force or brutality, and militarised violence against non-violent demonstrators; and

14. Rejecting authoritarianism and fascism, and standing in solidarity with political prisoners, human rights defenders, and peaceful protesters worldwide.

Background

Freedom of Expression

Freedom of expression is protected under Article 19 of the Universal Declaration of Human Rights and Article 19 of the International Covenant on Civil and Political Rights (ICCPR). These provisions guarantee the right to hold opinions without interference and the freedom to seek, receive, and impart information and ideas of all kinds, regardless of frontiers and through any medium. Freedom of expression protects the communication and exchange of ideas, opinions, information, and beliefs. Its protection extends to speech communicated verbally, in writing, through artistic expression, symbolic acts, protest, and other forms of communication.

Freedom of expression does not exist in isolation. Alongside Article 19 are important protections

for opinion, belief, privacy, political participation, and minority rights in Articles 18, 17, 25, and 27 of the ICCPR. Freedom of opinion and expression underpins the full enjoyment of a wide range of other human rights.

The European Court of Human Rights has repeatedly affirmed that pluralism, tolerance, and broadmindedness are fundamental characteristics of democracy and that restrictions on expression must therefore be interpreted narrowly. In *Handyside v United Kingdom*, the Court described freedom of expression as "one of the essential foundations of such a society, one of the basic conditions for its progress and for the development of every man." The Court further clarified that the right protects not only ideas that are favourably received or regarded as inoffensive, but also those that offend, shock, or disturb, recognising that pluralism and tolerance are indispensable characteristics of a democratic society. Therefore, freedom of expression protects robust public debate about religion, ideology, morality, and culture, including views that others may consider controversial, offensive, or deeply disagreeable.

This protection also extends to criticism of religions, religious institutions, and religious beliefs. While Article 9 ECHR protects freedom of thought, conscience, and religion, the Court has recognised that those who choose to manifest religious beliefs in public life cannot reasonably expect immunity from criticism or opposing viewpoints. In *Otto-Preminger-Institut v Austria*, the Court found that freedom of belief includes the freedom to question, reject, challenge, or criticise religious doctrines. Prohibiting criticism of religious beliefs would substantially undermine the ability to receive, impart, and debate both religious and non-religious ideas.

Importantly, not all offensive expression is protected. Speech that is gratuitously offensive, incites hatred and violence based on intolerance, or infringes on others' fundamental freedoms is not protected (*see* Art. 20, ICCPR; *Otto-Preminger-Institute v Austria*, at [49]; *Wingrove v United Kingdom*, at [52]; *Gündüz v Turkey*(2003) 41 E.H.R.R. 5, at [37]; *Giniewski v France* (2007) 45 E.H.R.R. 589, at [43]). TheRabat Plan of Action on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence contains a six-part threshold test for forms of speech that are prohibited under criminal law, considering: 1) the context of incitement to hatred, 2) the speaker, 3) intent, 4) content, 5) extent of the speech, and 6) likelihood of causing harm. The UN recommends applying this test when assessing whether a particular expression reaches the prohibited threshold under Article 20(2) of the ICCPR.

Freedom of Assembly

The right to peaceful assembly is recognised across international and regional human rights instruments. Article 21 of the International Covenant on Civil and Political Rights (ICCPR) provides that "the right of peaceful assembly shall be recognised." Similar protections are found in Article

20(1) of the Universal Declaration of Human Rights and Article 11 of the European Convention on Human Rights (ECHR). Additional protections relating to participation in assemblies appear in specialised human rights treaties, including Article 15 of the Convention on the Rights of the Child, Article 5(d)(ix) of the International Convention on the Elimination of All Forms of Racial Discrimination, and Article 8 of the African Charter on the Rights and Welfare of the Child.

The United Nations Human Rights Committee has described peaceful assembly as a cornerstone of democratic participation. In General Comment No. 37, it stated:

"The fundamental human right of peaceful assembly enables individuals to express themselves collectively and to participate in shaping their societies. The right of peaceful assembly is important in its own right, as it protects the ability of people to exercise individual autonomy in solidarity with others. Together with other related rights, it also constitutes the very foundation of a system of participatory governance based on democracy, human rights, the rule of law and pluralism."

The right belongs to everyone. It is not limited to citizens. Foreign nationals, migrants, asylum seekers, refugees, stateless persons, and undocumented individuals are all entitled to enjoy the protection of the right to peaceful assembly without discrimination. The right protects the non-violent gathering of people for specific purposes, most commonly expressive, political, social, cultural, or religious ones. Although assemblies are collective in nature, the right remains an individual human right exercised in association with others. Its protection extends to demonstrations, marches, rallies, vigils, public meetings, strikes, and certain forms of civil disobedience, provided they remain peaceful.

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Yes

Yes

Supporters

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