



YUCOM

Lawyers' Committee
for Human Rights

Address:
Kneza Milosa 4
11103 Belgrade
PAK 106915
Serbia

Telephone:
+381-11-3344235
Fax:
+381-11-3344425

e-mail:
office@yucom.org.rs

web:
www.yucom.org.rs

PRESS RELEASE

European Court of Human Rights: Serbia Violated the Right to Freedom of Peaceful Assembly

The European Court of Human Rights has delivered its judgment in the case of *Serbian-Chinese Friendship Society FDH (Falun Gong) v. Serbia*, unanimously finding that the Republic of Serbia **violated the applicants' right to freedom of peaceful assembly (Article 11 of the European Convention on Human Rights), as well as their right to an effective remedy (Article 13 of the Convention).**

The proceedings, in which the Lawyers' Committee for Human Rights (YUCOM) represented the FDH Association, concerned the prohibition of three peaceful protests that the organization had planned to hold in Belgrade in June 2016 during the official visit of the President of China. The purpose of the assemblies was to draw attention to the persecution of Falun Gong practitioners in China. However, the Ministry of the Interior prohibited the assemblies, citing the possibility of clashes with individuals who might gather to express support for the Chinese President. YUCOM recalls that this was not an isolated incident, but rather part of a decade-long pattern of restrictions imposed by the authorities on the association's public activities, including in circumstances where no visits by foreign officials were taking place and no genuine security concerns existed.

The Court found that the prohibitions constituted an interference with the right to freedom of peaceful assembly that was not "necessary in a democratic society." It held that the domestic authorities had failed to carry out a concrete and individualized security assessment, relying instead on assumptions and general references to a potential risk of confrontation. According to the Court, the mere possibility of tension or opposition to the message conveyed by an assembly cannot, in itself, justify a ban on a peaceful gathering. This same approach was applied for years in the prohibition of Pride events. Security assessments were routinely classified and withheld from organizers, and in some cases it was even questioned whether such assessments had been prepared at all. The absence of a concrete security assessment was identified by the Court as a key shortcoming in the Falun Gong case as well.

The Court further emphasized that, even in situations where there is a potential risk of confrontation, **the State has a positive obligation to take measures that enable the peaceful assembly to take place and to protect its participants, rather than automatically resorting to a ban.** A complete prohibition may be justified only in exceptional circumstances and must be based on specific, compelling, and evidence-based reasons.



The Court also found a violation of the right to an effective remedy, as the legal avenues pursued by the applicant did not provide timely judicial protection before the dates of the planned assemblies. The administrative proceedings were concluded only after the assemblies were due to take place, while the Constitutional Court delivered its decision on 8 February 2024, nearly seven and a half years after the constitutional appeal had been lodged. The Court held that such *ex post facto* protection lacks practical value in the context of the right to freedom of assembly, as organizers must have access to an effective judicial decision before the scheduled date of an assembly.

This judgment is of particular importance for the protection of freedom of assembly in Serbia, as it confirms that public assemblies cannot be prohibited on the basis of unverified assumptions, the political sensitivity of the issues being raised, or the potential opposition of other groups. **The right to peaceful assembly also protects assemblies whose message may be uncomfortable, controversial, or offensive to parts of the public, provided that they remain peaceful. In a democratic society, the State's role is not to remove differing opinions from the public sphere, but to ensure that they can be expressed peacefully and to protect participants from violence, intimidation, and undue pressure.**

