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**STATEMENT BY MR. ALEXANDER LUKASHEVICH,
PERMANENT REPRESENTATIVE OF THE RUSSIAN FEDERATION,
AT THE 1242nd MEETING OF THE OSCE PERMANENT COUNCIL**

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**On the violation of freedom of peaceful assembly in the United States of America,
Canada and some Member States of the European Union**

Mr. Chairperson,

At the Permanent Council meeting on 5 September, we discussed the problem relating to freedom of peaceful assembly. We should like to continue the discussion on this pressing topic, particularly as the persecution of participants in peaceful gatherings is continuing – as was the case, for example, in New York and Houston, where the police arrested dozens of protesters during the first half of September. The local media and human rights defenders have remained silent on this matter.

This time, we shall focus on legislative restrictions and practice in the United States of America, Canada and some European Union Member States. Let us say straight away that this list of restrictions is not exhaustive, and we shall cite the most graphic examples.

In the United States, for instance, permits to hold events are issued subject to mandatory approval by the fire department, transport authorities and police. Municipal authorities have the right to “suspend” the use of an urban area if they believe it is necessary to ensure the normal flow of traffic or for other public needs.

In some US cities, municipalities have imposed a ban on public events in the vicinity of “silent zones” established by the authorities, in particular near government quarters or administrative buildings. If there is no permit or if any of its provisions are violated, the local authorities have the right to stop the event, up to the point of using crowd control gear, and also to detain participants in that event.

In Canada, in accordance with its laws, “spontaneous” rallies are not permitted, and any demonstrations require the approval of the city authorities. However, a peaceful march may be regarded as disturbing public order if it causes a disturbance to the peace, causes damage, results in mass riots or involves criminal intent.

Now let us turn to the situation in some countries of the European Union.

In the United Kingdom, street demonstrations and rallies are allowed only if official permission has been obtained from the authorities. The organizers are obliged to apply to the relevant police station in writing at least six working days in advance and should specify the date, place and time of the demonstration and the proposed route, and also provide their names and addresses.

If unauthorized or prohibited public events obstruct the movement of traffic or pedestrians, the police have the right to take measures to stop them, and this includes the use of physical force or crowd control gear.

All gatherings or a specific category of gathering may be prohibited in a given area for a period of up to three months if the law enforcement authorities believe that less severe restrictions are insufficient to prevent public disorder.

In Germany, any public event, gathering or demonstration must be sanctioned by the authorities. This applies to events held indoors and to those taking place in the open air. The right to freedom of assembly may be denied to persons who abuse it to fight against the foundations of constitutional order.

A person holding a public gathering without notification having been provided faces imprisonment for up to one year or a fine.

A gathering in the open air may be prohibited if there are clear signs of a threat to public safety or order. There is a direct ban on holding rallies and marches near federal authority buildings. Disguises should not be worn if they are an expression of the non-peaceful intentions of the wearer.

Participants in a demonstration or march are prohibited from shouting slogans or carrying banners that contradict the main purpose of the demonstration. The authorities have the right to stop such an event if there is a threat of harm to people or property.

The police have been granted broad powers to break up demonstrations. In doing so, they may use force and firearms.

In France, public events need to be agreed upon with the authorities. Unauthorized demonstrations are regarded as unlawful and are prohibited. There is provision for fines and prison sentences of up to six months for participation in an undeclared demonstration or for submission of incomplete or false information about such a demonstration, as well as for holding a prohibited demonstration.

A crowd of people who are not demonstrators falls under the definition of a “mob”, which can be forcibly dispersed by the police. Deliberately continuing to participate in such an action carries the risk of imprisonment for one year or a hefty fine.

It is worth mentioning that recently French legislation has been tightened up considerably, notably in connection with the months-long protests by the “gilets jaunes”. For example, fines for participation in illegal demonstrations have been increased, and a ban has been imposed on holding demonstrations in places where the consequences of rioting could be particularly severe. In addition to patrolling by the police during protests, there is provision for the use of video surveillance and drones to identify the “most aggressive protesters”.

The “deliberate and voluntary” covering of one’s face “without legal justification” in places where demonstrations are being held or in their vicinity is considered a serious offence. The police have the right to detain such protesters. For this offence, there is provision for up to one year’s imprisonment or a fine of up

to 15,000 euros. Violating the ban on participation in demonstrations can result in imprisonment for up to three years.

Similar legislative restrictions on the holding of events depending on the time and place are also enshrined in the laws of a number of other European Union countries.

The legislative norms restricting freedom of peaceful assembly that we have just listed are not only enshrined on paper, but also actively applied.

For example, in its 2018 report entitled “Challenges facing civil society organisations working on human rights in the EU”, the European Union Agency for Fundamental Rights highlights a number of European Union Member States that have recently imposed restrictions on the exercise of freedom of assembly. In particular, demonstrators in the Netherlands and Poland have faced restrictions by the authorities regarding the use of placards and symbols.

This report refers to the abuse of power and use of force by law enforcement officers against demonstrators during protests in the Netherlands against manifestations of racism. The same thing happened in Estonia during the suppression of a protest by individuals at the Harku detention centre for asylum seekers in 2015.

In London, over a thousand people were arrested during environmental protests in April 2019 and 53 detainees were charged.

In Hawaii, during protests by the indigenous population against the construction of a telescope, some forty people were detained and a state of emergency was imposed, which expanded the powers of the US law enforcement officers to maintain public order in the region and allowed the involvement of National Guard forces. In July this year, some seventy people were detained in Washington during an unauthorized rally near the Capitol Building. Not to mention how the guardians of law and order made heavy use of tear gas, rubber bullets and billy clubs in Ferguson or during protests against the election of President Trump.

We cannot fail to mention once again the marches by the “gilets jaunes” in France. It was clear to everyone that the behaviour of the authorities in this case had little to do with the right to freedom of assembly, especially if we take into account the number of demonstrators detained and the methods of force used by the law enforcement officers against demonstrators and journalists. The first sentences are already being handed down to protesters. One further example is the dispersal of the protest rally against the G7 Summit in Bayonne on 24 August.

Returning to the aforementioned legislative norms, we should point out that in general they are united by one main provision – only those protests or rallies that have been agreed with the authorities and that do not violate public order or cause damage are considered democratic.

Thank you for your attention.