

## General Information

Complaint Number	Submission Language	Committee	State Party	Have you exhausted all domestic remedies?	Has the same matter been submitted under another procedure of international investigation or settlement?
WUR/33826	English	Human Rights Committee	Netherlands	Yes	No

## Correspondent

Gender	First Name	Last Name	Nationality	Date of Birth	Firm or Organization Name	E-mail	Country	Phone Number	Address	Request to anonymize this person?	Is the correspondent a victim?
Female	Rosa	Beets			Stichting PILP		Netherlands		Amsterdam, 1016DR, Keizersgracht 177	No	No

## Alleged Victims

Gender	First Name	Last Name	Nationality	Date of Birth	E-mail	Country	Phone Number	Address	Request to anonymize this person?	Representative Name
Female	Lotte	Keularts				Netherlands			No	Not Available
Male	René	van der Luer				Netherlands			No	Not Available

## International investigation or settlement

Has the same matter been submitted under another procedure of international investigation or settlement?

No

Please indicate the procedure or body you have submitted the same matter to, date of submission, the authors, the claims made, the decision adopted, and the reason why this should not prevent the communication from being considered by the Committee.

## Facts

### CLIMATE ALARM 2021

- On 14 March 2021, local residents L. Keularts and R. van der Luer ("complainants"), organised a protest in Heerlen, a city in the south of the Netherlands. The protest was part of the Climate Alarm 2021 - a national protest against the climate crisis, climate change and the absence of policy rules on these themes. The Climate Alarm 2021 demanded, amongst other things, that the Dutch government should prioritize people over polluting companies and should force companies to pay for climate damage.
- The Climate Alarm 2021 was an initiative of the national Climate Crisis Coalition. This Coalition consisted of eleven NGO's, including Greenpeace Netherlands, Oxfam Novib and trade union FNV. It also included Friends of the Earth Netherlands ("Milieudefensie"), who was a claimant in the national legal procedure preceding this communication.<sup>[1]</sup> Milieudefensie explicitly supports this communication to the UN Human Rights Committee ("HRC").
- The Climate Alarm is an annual large-scale, national protest in the Netherlands which attracts tens of thousands of demonstrators. However, because of the Covid-19 pandemic in 2021, the demonstration took a decentralized form, consisting of multiple local protests organised by local coalitions. Complainants actively participated as organizers within the "Climate Coalition Parkstad", the local branch which organized the protest in Heerlen. Climate Coalition Parkstad was a collaboration of local organizations, including Black Live Matters Parkstad, Amnesty Parkstad and Grandparents For Climate. The coalition further included local inhabitants of Heerlen, most of whom were affiliated with one of the organisations of the National Climate Crisis Coalition.
- On 19 January 2021, complainant Keularts submitted a prior notification of the protest to the municipality of Heerlen. In the notification, she communicated to the local authorities that the Climate Coalition Parkstad had planned "a static, coronaproof protest". The envisioned program featured speeches by concerned residents,

alongside music and spoken word performances by local artists – all directly related to climate change. An important element of the demonstration concerned the performance of the so-called “Climate Song”, which would be sung during the Climate Alarm protest in all participating municipalities.

5. On 17 February 2021, complainant Van der Luer presented himself to the mayor as the spokesperson of Climate Coalition Parkstad.
6. Although the planned protest was a textbook example of a peaceful assembly, it was severely restricted in advance by the local authorities. On 8 March 2021, the mayor of Heerlen decided, pursuant to the Public Manifestations Act (“WOM”), to impose 28 restrictions and conditions to the protest (Annex 1: Primary Decision). For instance, the complainants were summoned to limit the number of participants to 200 people and prohibited to cause any disruption to traffic or block roads. The four restrictions most relevant to this communication procedure are the following:

*Nr. 9. The names of the speakers will be communicated to the municipality well in advance.*

*Nr. 10. There are no elements permitted which give the protest, in the opinion of the mayor, the character of an event. This means that, at a minimum, no music will be played and no performances or show elements, such as fireworks or a light show, will take place.*

*Nr. 17. The site of the protest will be cleaned up afterwards. Any flyers or other paperwork that you have distributed, and which have been thrown away need to be cleaned up. If the municipality determines that this has not been done sufficiently, it will carry out the work itself and charge the costs on you.*

*Nr. 18. Any damage to public pavements or green spaces will be repaired by the municipality at your expense.*

7. In the days before the protest, the complainants faced a considerable amount of stress because of the large amount of restrictions. They were unsure, for instance, how to act if more than the permitted 200 persons would show up or when the police would intervene during the performance of the (prohibited) Climate Song. Moreover, they feared potential financial repercussions as a result of restrictions nrs. 17 and 18 ((hereafter also: “clean-up and damage obligations”). In the end, they decided to go ahead with the protest only because it was supported by a coalition of national, larger NGO’s with greater financial resources and because the cause of climate justice demanded action. The complainants also extensively discussed making last minute adjustments to the form and contents of the planned protest, but in the end decided to engage in civil disobedience and not to comply with restriction nr. 10. Again, they only dared to do so because of the backup of a large national coalition.
8. On 14 March 2021, the Climate Alarm 2021 took place. In over 40 Dutch municipalities, tens of thousands of people gathered in the streets to protest. Approximately 170 people peacefully participated in the protest in Heerlen, a turnout which according to the complainants would have been considerably higher without the large number of restrictions and the chilling effect as a result thereof. It should be mentioned that in all participating municipalities except for Heerlen, the Climate Alarm 2021 went smoothly and that protesters could exercise their right to peaceful assembly in the manner that they preferred.
9. During the protest, a civil servant issued a warning to complainant Van der Luer that Climate Coalition Parkstad was violating the conditions imposed on the protest and that music was prohibited and should be stopped. Furthermore, the civil servant indicated that failure to comply with the restrictions could result in repercussions for future protests.

#### GENERAL BACKGROUND: THE RIGHT TO PROTEST UNDER PRESSURE

10. Over the past years, the right to protest has come increasingly under pressure in the Netherlands. Oversight bodies and human rights organizations have raised concerns that Dutch authorities restrict demonstrations too readily and often prioritize public order over the fundamental right to protest. As a result, demonstrations are regularly subject to far-reaching restrictions or, in some cases, prohibited.<sup>[2]</sup>
11. An illustration of this increasing pressure on the right to protest is the manner in which Dutch authorities handle the notification system. Municipalities often impose standard restrictions on protests and request extensive information during the notification procedure. These practices may discourage participants and undermine the effective exercise of the right to protest.<sup>[3]</sup>
12. Concerns have also been raised about policing and the use of criminal law in protests. For example, in 2023, the Netherlands Institute for Human Rights concluded that there had been a high number of arrests of organizers and participants. Amnesty International Netherlands has also drawn attention to the increasing surveillance of organizers and participants.<sup>[4]</sup> In addition, there has been a rise in restraining orders and authorities increasingly make use of administrative relocations of activists.<sup>[5]</sup> Taken together, these developments suggest a broader trend in which the obligation of public authorities to facilitate peaceful protests is increasingly being overshadowed by a risk-oriented approach.

#### NATIONAL LEGAL PROCEEDINGS

##### Administrative proceedings at the municipality of Heerlen

13. Pursuant to the WOM, the mayor of Heerlen imposed 28 restrictions and conditions in the primary decision of 8 March 2021. The four restrictions relevant to this communication procedure are listed in paragraph 6.
14. On 10 March 2021, the complainants administratively appealed against restrictions 5, 9, 10, 17, 18 and 23 of the primary decision (Annex 2: Notice of Objection). In this process, they argued that these restrictions violated both national and international legal standards regarding the right to protest. With regards to the restrictions most relevant to this communication, the complainants argued that:
  - i. The obligation to provide the names of those who will be speaking at a protest to the municipality in advance interferes with the obligation of public authorities to remain neutral towards the message or content of a protest.<sup>[6]</sup>
  - ii. The use of music and performances falls within the scope of the right to freedom of expression. Protestors should be free to decide on the desired form and content of the protest.<sup>[7]</sup>
  - iii. The obligations that the organisers were liable for any damage caused by the protest and required to ensure clean-up of the protest location are in violation of principles in international law and generate an undesirable chilling effect.<sup>[8]</sup>
15. On 3 June 2021, the mayor declared the administrative appeal unfounded (Annex 3: Decision on Notice of Objection). According to the mayor, the restrictions were not related to the content of the demonstration, complied with the WOM, and did not render the right to demonstrate meaningless.<sup>[9]</sup> As to the clean-up and damage obligations, the mayor contended that these should rather be viewed as “*announcements*” void of legal effect than as legal restrictions, since allegedly under Dutch law the organisers of a protest would already be obliged to pay for any clean-up or damages.<sup>[10]</sup>

##### Proceedings at the Limburg District Court

16. On 12 July 2021, complainants appealed against the decision on objection at the District Court of Limburg (“District Court”). The appeal further substantiated the five grounds as mentioned above in paragraph 14 (Annex 4: Appeal of the complainants (District Court)).
17. On 8 December 2021, the mayor submitted his statement of defence (Annex 5: Statement of Defence of the mayor (District Court)). In short, the mayor contended that the prohibition of music and performances was imposed due to the Covid 19-pandemic.<sup>[11]</sup> The obligation to provide the names of speakers in advance of the protest

served the interest of establishing the expected number of protestors.<sup>[12]</sup>

18. On 5 September 2023, the District Court ruled that the appeal of the complainants was partly well-founded, partly unfounded and partly inadmissible (Annex 6: Verdict of the District Court).
19. The District Court ruled that the identity (i.e. the name) of a speaker and the message which they will likely convey are inextricably linked, as they form part of the content of the thoughts and feelings being expressed. By requesting the names of the speakers in advance of the protest, the mayor was thus interfering with the content of their thoughts and feelings, which is prohibited under the WOM. The fact that the demonstration took place during the COVID-19 pandemic does not affect this reasoning. The Court also noted that this requirement failed the necessity-test, given the other regulations and restrictions imposed. The District Court hence declared this part of the appeal to be well-founded.<sup>[13]</sup>
20. Moreover, the District Court held that the mayor was justified in imposing the ban on music and performances, given the COVID-19 measures in force at the time – including the ban on holding events – and the legitimate aim of protecting public health. According to the Court, the mayor could reasonably have taken the view that as soon as a demonstration includes one of these elements – including (pop)-music – it acquires the character of an “event” and could thus attract a different and larger audience. In line with this reasoning, the District Court declared this part of the complainants’ appeal unfounded. <sup>[14]</sup>
21. Finally, regarding the clean-up and damage obligations, the District Court considered that, based on their wording, these provisions were void of legal effect, meaning that any damage to public property or the failure to leave the demonstration site in a clean condition could not trigger enforcement action. The Court ruled that the applicants’ appeal regarding these provisions was inadmissible.<sup>[15]</sup>

#### Proceedings at the Administrative Division of the Dutch Council of State

22. On 12 October 2023, the complainants submitted an appeal to the Administrative Division of the Dutch Council of State (“Council of State”) against the unfounded and inadmissible elements of the District Court’s judgement (Annex 7: Appeal of the complainants (Council of State)). The complainants argued that the mere fact that a demonstration features elements, such as music, that *could* also be part of an event does not imply that a demonstration accordingly transforms into an event.<sup>[16]</sup> Furthermore, the complainants underscored that the Dutch government explicitly excluded demonstrations from the ban on events during Covid-19 pandemic.<sup>[17]</sup> Additionally, the ban on music was not proportionate and necessary.<sup>[18]</sup> The complainants furthermore argued that the cleaning and damage obligations violate the Dutch Constitution, international human rights and the WOM and that the mayor should not have included these restrictions in the primary decision.<sup>[19]</sup>
23. On 15 November 2023, the mayor also appealed against the District Court judgement (Annex 8: Appeal of the mayor (Council of State)). In his appeal, the mayor argued, amongst other things, that the obligation to share the names of speakers beforehand should be understood as being primarily informed by the ongoing COVID-19 pandemic at that time and that the mayor could have legitimately imposed this restriction on the protest. <sup>[20]</sup>
24. On 19 December 2023, the complainants submitted a written response to the mayor’s grounds of appeal (Annex 9: Written response complainants). In short, they reiterated that the obligation to communicate the names of the speakers before the protest relates to the content of a demonstration, regardless of the intention, and that this restriction was not proportionate and necessary.<sup>[21]</sup>
25. On 24 September 2025, the Council of State issued its ruling (Annex 10: Ruling of the Council of State).
26. The Council of State agreed with the mayor (and the District Court) that the clean-up and damage obligations must be regarded as factual statements, which do not create legal rights or obligations. According to the Council of State, any duty to pay damages would arise from the law itself and not from these provisions.<sup>[22]</sup>
27. The Council of State furthermore held that the prohibition of music and performances was proportionate and necessary to achieve the legitimate aim of protecting public health. The Council agreed with the mayor that it was important for the protest not to ‘transform’ into an event, attracting a large number of visitors.<sup>[23]</sup>
28. Contrary to the District Court, however, the Council of State found that the obligation to provide the names of speakers in advance of the protest does not relate to its contents. The Council of State considered that the mayor felt it necessary to draw up a list of the speakers in order to estimate the expected turnout and the measures he might need to take as a result. According to the Council of State, the mere fact that certain speakers may attract more people than others is an observation that has nothing to do with the content of those speakers’ message. However, the Council did agree with the District Court that the mayor had failed to adequately motivate the necessity of this obligation, given the limitation of the number of protestors to 200 people. Moreover, as the names of the speakers were not yet known to the general public, there was no risk that they would attract a particularly large crowd.<sup>[24]</sup>

<sup>[1]</sup> Milieudefensie The Netherlands is part of the Friends of the Earth International Network.

<sup>[2]</sup> Report National Ombudsman of the Netherlands ‘Demonstreren, een schurend grondrecht?’, March 14, 2018, p. 29; Report Amnesty International, ‘Demonstratierecht onder druk. Regels en praktijk in Nederland moeten beter’, November 2022, p. 42-43.

<sup>[3]</sup> F.H. Fetter, A.H.M. Peters & R. Stolk, ‘Een goed begin is het halve werk. Een empirische analyse van lokale kennisgevingsprocedures bij demonstraties,’ *Gst.* 2025/8, p. 41-42; N.J.L. Swart & B. Roorda, ‘Beperkt de burgemeester de betogingsvrijheid te vergaand? Een analyse van de rechtspraktijk inzake demonstraties bij abortusklinieken’, *NJB* 2023/1088, p. 1316-1317; Report Amnesty International, ‘Demonstratierecht onder druk. Regels en praktijk in Nederland moeten beter’, November 2022, p. 34-35.

<sup>[4]</sup> The Netherlands Institute for Human Rights, ‘Demonstratierecht onder druk, blijkt uit aanhouding klimaatactivisten’, Januari 31, 2023; Report Amnesty International, ‘Ongecontroleerde macht. ID-controles en gegevensverzameling van vreedzame demonstranten in Nederland’, May 2023, p. 31-32.

<sup>[5]</sup> Report Amnesty International, ‘Demonstratierecht onder druk. Regels en praktijk in Nederland moeten beter’, November 2022, p. 62; T.M.D. Buruma & L.A. van Noorloos, ‘De oproep tot demonstreren: strafbaar? Een verkenning van het opruiingsdelict bij demonstraties in het licht van de uitingsvrijheid en de betogingsvrijheid’, *BStb* 2025/1, p. 16-17.

<sup>[6]</sup> Annex 2, para 6.2.

<sup>[7]</sup> Annex 2, para 6.3.

<sup>[8]</sup> Annex 2, para 6.4.

<sup>[9]</sup> Annex 3, under ‘Conclusion’.

<sup>[10]</sup> Annex 3, page 12.

<sup>[11]</sup> Annex 5, page 5.

<sup>[12]</sup> Annex 5, page 4.

<sup>[13]</sup> Annex 6, para 12-14.1.

<sup>[14]</sup> Annex 6, para 15-17.

<sup>[15]</sup> Annex 6, para 19-20.

<sup>[16]</sup> Annex 7, para 3.1.4.

<sup>[17]</sup> Annex 7, para 3.1.3.

<sup>[18]</sup> Annex 7, para 3.1.4.

<sup>[19]</sup> Annex 7, para 3.2.3.

<sup>[20]</sup> Annex 8, page 3.

<sup>[21]</sup> Annex 9, page 2.

[22] Annex 10, para 4.1.

[23] Annex 10, para 5.2.

[24] Annex 10, para 7.2.

## Domestic Remedies

Have you exhausted all domestic remedies?

Yes

**Include information on steps you have taken to exhaust domestic remedies: Please describe, in chronological order, each step taken by the alleged victim(s) to raise their claims before courts and/or administrative authorities. Please describe the date and content of each submission, the authority to which it was submitted, the date of the decision, and the reason(s) for the decision. If domestic remedies have not been exhausted, please state why this should not prevent your communication from being admissible (for example if they are ineffective or unreasonably prolonged.)**

On 8 March 2021, the mayor of Heerlen decided, pursuant to the WOM, to impose 28 restrictions and conditions to the protest (Annex 1: Primary Decision).

On 10 March 2021, the complainants administratively appealed against restrictions 5, 9, 10, 17, 18 and 23 of the primary decision (Annex 2: Notice of Objection).

On 6 April 2021, an online hearing took place on the administrative appeal.

On 3 June 2021, the mayor declared the administrative appeal unfounded (Annex 3: Decision on Notice of Objection).

On 12 July 2021, complainants appealed against the decision on objection at the District Court of Limburg (Annex 4: Appeal of the complainants (District Court)).

On 10 December 2021, the mayor submitted his statement of defence (Annex 5: Statement of Defence of the mayor (District Court)).

On 25 July 2023, a hearing took place at the District Court of Limburg.

On 5 September 2023, the District Court ruled that the appeal of the complainants was partly well-founded, partly unfounded and partly inadmissible (Annex 6: Verdict of the District Court).

On 12 October 2023, the complainants submitted an appeal to the Administrative Division of the Dutch Council of State against the unfounded and inadmissible elements of the District Court's judgement (Annex 7: Appeal of the complainants (Council of State)). The Council of State is the highest administrative court in The Netherlands. The domestic remedies have thus been exhausted.

On 15 November 2023, the mayor also appealed against the District Court judgement (Annex 8: Appeal of the mayor (Council of State)).

On 19 December 2023, the complainants submitted a written response to the mayor's grounds of appeal (Annex 9: Written response complainants).

On 6 May 2025, a hearing took place at the Council of State.

On 24 September 2025, the Council of State issued its ruling (Annex 10: Ruling of the Council of State).

Please find the content of (1) the appeals of complainants, (2) the decisions of the mayor and (3) the verdicts of the courts further described under 'facts'.

Date of adoption or notification of the last decision by domestic authorities

24/09/2025

## Claims

Article	Please explain how and why you consider that the facts and circumstances described violate your rights/ the alleged victim(s)' rights. Please specify which rights you consider to have been violated. You should try to separate different allegations under different articles.
19-21	<ol style="list-style-type: none"><li>1. The prohibition to make use of any music during the demonstration constitutes a disproportionate interference with the form of the complainants' protest, and as such violates their rights under articles 19 and 21 ICCPR. The complainants intended to reinforce the message of the local Climate Alarm 2021 through elements such as musical performances and protest songs. However, the authorities and, along the same lines, the Council of State, wrongfully asserted that these elements could (and would) change the protest into an "event" and should be prohibited accordingly.</li><li>2. A fundamental characteristic of a protest is its collective purpose to convey a message or express an opinion. In GC 37, your Committee has defined the scope of the right to peaceful assembly as follows: "<i>Participating in an "assembly" entails organizing or taking part in a gathering of persons for a purpose such as expressing oneself, conveying a position on a particular issue or exchanging ideas. The gathering can also be intended to assert or affirm group solidarity or identity. Assemblies may, in addition to having such aims, serve other goals, such as an entertainment, cultural, religious or commercial objective, and still be protected under article 21.</i>"<sup>[1]</sup> Accordingly, a protest is rather defined by its purpose of common expression than by its form.</li><li>3. The European Court of Human Rights ("ECtHR") underscores that the right to freedom of expression not only protects the contents and the ideas conveyed, but also the form in which those ideas are conveyed.<sup>[2]</sup> It is up to the organizers of a protest to determine the form through which they wish to convey their message. In GC 37, your Committee states that participants of a peaceful protest "<i>should be left to determine whether they want to use equipment such as posters, megaphones, musical instruments or other technical means, such as projection equipment, to convey their message. Assemblies may entail the temporary erection of structures, including sound systems, to reach their audience or otherwise achieve their purpose.</i>"<sup>[3]</sup></li><li>4. Indeed, assemblies may take on many forms, such as "<i>demonstrations, meetings, strikes, processions, rallies or sit-ins, with the purpose of voicing grievances and aspirations or facilitating celebrations.</i>"<sup>[4]</sup> Even sporting events, music concerts and other gatherings of this kind could potentially be considered as assemblies.<sup>[5]</sup></li><li>5. In GC 37, your Committee considered that the provisions concerning the right to freedom of expression should also extend to "<i>any expressive elements of assemblies.</i>"<sup>[6]</sup> Such expressive elements – for instance music and songs – are means through which a message of a protest can be conveyed. Music may hence provide an essential tool in exercising the right to protest, being integral to protest identity, emotional resonance, and collective mobilization. In GC</li></ol>

Article	Please explain how and why you consider that the facts and circumstances described violate your rights/ the alleged victim(s)' rights. Please specify which rights you consider to have been violated. You should try to separate different allegations under different articles.
	<p>34 your Committee furthermore confirms that 'artistic expression' is covered under article 19 ICCPR.<sup>[7]</sup></p> <p>6. Articles 19 and 21 ICCPR thus protect both content <i>and</i> form of a demonstration – including expressive and artistic elements such as music and songs. However, the mayor of Heerlen, and consequently the Council of State, erroneously claimed that this restriction on the complainants' protest was proportionate and necessary, asserting it served public health interests by preventing the protest from becoming "an event which would attract many visitors" (which they deemed particularly relevant as events were prohibited in the Netherlands during this stage of the COVID-19 pandemic).<sup>[8]</sup> The Council of State furthermore incomprehensibly argued that there was no indication that music and performances were significantly related to the purpose or contents of the demonstration, and that the restriction did not hinder the protestors in conveying their message since alternative forms of expression – such as speeches or banners – were still allowed. Moreover, the Council stated that the restriction did not prohibit the singing of songs.<sup>[9]</sup></p> <p>7. According to the complainants, the Council of State's reasoning fundamentally misconstrues the relationship between music and protest objectives. All expressive elements of demonstrations, such as music and songs, that may contribute to a communicative purpose are protected under article 21 ICCPR. The decisive question to determine whether a gathering of people defines as an assembly within the context of article 21 ICCPR is whether it has the aim of conveying a communal message. When this condition is met, the authorities should grant the gathering protection under articles 19 and 21 ICCPR. An interference with these rights is only permissible when proportionate and necessary.</p> <p>8. The complainants contend that the prohibition of music was neither proportionate nor necessary in a democratic society to protect public health. Although public health concerns during the COVID-19 pandemic constituted a legitimate aim, the complainants had explicitly expressed their intention to adhere to all Covid-19 regulations. They had hence organised the protest in a manner and form that complied with all regulations in force, for instance by ensuring that protesters would maintain sufficient distance from one another. Furthermore, the complainants recall that demonstrations were explicitly excluded from the Covid-19 related ban on events. The authorities failed to demonstrate that this specific restriction was necessary and that it was the least intrusive means to achieve public health protection. By targeting specific expressive elements rather than addressing the actual public health risk (i.e. crowd density), the restriction was overbroad and not proportionate to the stated objective.</p> <p>9. Furthermore, the Council of State's consideration is inaccurate since music undoubtedly contributed to the complainants' protest objectives. Music and protest songs, such as the national "Climate Song", formed an integral part of the envisioned protest – as demonstrated by the fact that this song was performed during the protest in all participating municipalities concurrently. Besides this, your Committee has indicated that entertainment may well function as a side-aim of an assembly whilst retaining its protected status.<sup>[10]</sup></p> <p>10. The consideration of the Council of State that "speeches or banners were still allowed" demonstrates a misunderstanding of protest as a holistic expressive experience. Restricting music while permitting speech creates an artificial hierarchy of expression that undermines the full exercise of assembly rights. The complainants would also like to emphasize that the original text of the restriction in the primary decision related to all types of music: "<i>This means that, at a minimum, no music (...) will be played</i>".</p> <p>11. The restriction caused a seriously chilling effect and, moreover, forced the complainants to engage in civil disobedience given the importance of music to their protest. During the protest, the complainants have also been effectively restricted in exercising their chosen form of protest because of the warning issued by the civil servant. The restriction therefore had an irreversible effect on the form and content of the protest and the possibility for the participants to convey their message.</p> <p>12. In conclusion, the prohibition of the use of music was not justified by reasons of protection of public health and was not necessary in a democratic society. The complainants therefore contend that prohibiting music during the protest violated their right to peaceful assembly under articles 19 and 21 of the ICCPR.</p> <p><sup>[1]</sup> GC 37, para 12 (underlining added).</p> <p><sup>[2]</sup> ECtHR, 17 July 2018, Mariya Alekhina and others v. Russia, para 197.</p> <p><sup>[3]</sup> GC 37, para 58 (underlining added).</p> <p><sup>[4]</sup> A/HRC/31/66, para 10. See also A/HRC/20/27, para. 24.</p> <p><sup>[5]</sup> A/HRC/31/66, para 10.</p> <p><sup>[6]</sup> GC 37, para 49.</p> <p><sup>[7]</sup> GC 34, para 11.</p> <p><sup>[8]</sup> Annex 10, para 5.2.</p> <p><sup>[9]</sup> Annex 10, para 5.2.</p> <p><sup>[10]</sup> GC 37, para 12.</p>
19-21	<p>1. The obligation to provide names of speakers to the authorities in advance interferes with the obligation of public authorities to remain neutral towards the message or contents of a protest, and as such violates the complainants' rights under articles 19 and 21 ICCPR. According to the complainants, the requirement to communicate speakers' names constitutes a form of prior censorship: by requiring advance disclosure of speaker names, authorities gain knowledge of the protest's contents before it occurred, which is not permitted. This obligation causes a chilling effect and is restrictive to the organizers as well as the speakers, as they may feel forced into self-censorship as a consequence.</p> <p>2. The principle of content-neutrality<sup>[1]</sup> is fundamental to the freedom of expression and the right to peaceful assembly. Content-neutrality prevents the government from becoming an "arbiter of truth", deciding which ideas are worthy of public expression. The principle thus ensures an equal protection of opinions, which is essential for a functioning democracy. It furthermore allows for a robust public discourse, as protestors do not need to fear their message be disapproved of, and ensures that authorities cannot prevent criticism or opposition. Considering all this, your Committee has, understandably, shown particular strictness in this area and treated content-neutrality as a fundamental requirement with minimal tolerance for exceptions.<sup>[2]</sup></p> <p>3. In GC 37, your Committee confirms that authorities should adopt a neutral approach towards the contents of a peaceful assembly. Any restriction imposed "<i>must thus in principle be content neutral, and must not be based on the identity of the participants or their relationship with the authorities</i>".<sup>[3]</sup> Moreover, your Committee considers that "<i>the requirement that any restrictions, in principle, be content neutral, and thus not be related to the message conveyed by the assembly</i>" is essential to the protection of the right to peaceful assembly.<sup>[4]</sup> A contrary approach would defeat "<i>the very purpose of peaceful assemblies as a potential tool of political and social participation that allows people to advance ideas and establish the extent of the support that they enjoy</i>".<sup>[5]</sup></p> <p>4. In the present case, the mayor of Heerlen motivated his demand for prior notification of speakers' names by practical reasons: it would be necessary to obtain an overview of speakers in order to form a broader assessment of the expected turnout and to adopt corresponding measures. The Council of State concluded that the finding that some speakers will attract a larger crowd than others is unrelated to the content of the message of those speakers (however, adding that in this particular case the mayor insufficiently motivated why prior notification of speakers' names would be necessary).</p>

Article	Please explain how and why you consider that the facts and circumstances described violate your rights/ the alleged victim(s)' rights. Please specify which rights you consider to have been violated. You should try to separate different allegations under different articles.
	<p>5. In doing so, both the mayor and the Council of State have failed to recognize that the name of a speaker is, especially in the context of a protest, intrinsically linked to the contents of their message. The name of Greta Thunberg, for example, immediately evokes the notion of climate justice, and the names of certain speakers will carry a connotation of a more radical message than others. The obligation for the complainants to communicate speakers' names in advance of the Climate Alarm 2021 protest thus constitutes, in and of itself, a violation of the content-neutrality principle. The authorities' intentions behind this condition are irrelevant. Moreover, if a well-known person such as Greta Thunberg would speak at a protest, this will only affect the number of protesters if it has been announced publicly. If a name has not been publicly announced, prior notification is unnecessary since potential protesters will be unaware of this speakers' participation (making a larger turnout unlikely).</p> <p>6. It is furthermore internationally recognized that such conditions form an unnecessary heavy burden on protestors. According to the 3<sup>rd</sup> edition of the OSCE/ODIHR Guidelines on the Freedom of Assembly, information requested within the prior notification procedure should be kept to a minimum.<sup>[6]</sup> It could have a deterrent effect on potential organizers or participants of a protest if the notification procedure would be excessively burdensome, which in turn could undermine their right to peaceful assembly. As examples of unnecessary additional requirements in notification procedures, the Guidelines list, inter alia, "the submission of identification details of others involved in the event, or the exact or predicted number of participants (which will not always be possible to specify)".<sup>[7]</sup> See in 2</p> <p>7. this context also Joint Report A/HRC/31/66 on the proper management of assemblies, which states that any notification procedure should not function as a disguise for prior authorization or content-based regulation.<sup>[8]</sup></p> <p>8. Finally, participants to a protest (including speakers) may, as a general rule, choose to remain anonymous. In GC 37, your Committee stated that "[t]he wearing of face coverings or other disguises by assembly participants (...) or taking other steps to participate anonymously may form part of the expressive element of a peaceful assembly or serve to counter reprisals or to protect privacy (...). The anonymity of participant should be allowed unless their conduct presents reasonable grounds for arrest, or there are other similarly compelling reasons (...)"<sup>[9]</sup> It should thus be up to the speakers themselves whether they wish to keep their identity concealed.</p> <p>9. In conclusion, requiring advance communication of speakers' names undermines content-neutrality by enabling authorities to evaluate protest content before it occurs, regardless in which manner they intend to use this information. The imposition of this requirement undermines the very essence of the rights to freedom of expression and assembly. The requirement hence constitutes an impermissible content-based restriction on the complainant's rights under Articles 19 and 21 ICCPR, which was neither necessary nor proportionate.</p> <p><sup>[1]</sup> Defined in OSCE/ODIHR Guidelines on Freedom of Peaceful Assembly, 2nd Edition (2010) as "a principle that only allows the restriction of expression without regard to the content or communicative impact of the message conveyed", p. 116.</p> <p><sup>[2]</sup> GC 37, para 48; HRC/31/66, para. 33.</p> <p><sup>[3]</sup> GC 37, para 22.</p> <p><sup>[4]</sup> GC 37, para 48.</p> <p><sup>[5]</sup> GC 37, para 48.</p> <p><sup>[6]</sup> OSCE/ODIHR, Guidelines on Freedom of Peaceful Assembly, 3<sup>rd</sup> Edition (2020), para 119. See, by means of comparison, OSCE/ODIHR, 'Opinion on the Act on the Regulation of Public Meetings, Marches, Rallies, Demonstrations and Assemblies', 21 December 2012 (<a href="#">Microsoft Word - FINAL Opinion FoA Law Dec 2012 with Annex.doc</a>), para 40-41.</p> <p><sup>[7]</sup> OSCE/ODIHR, Guidelines on Freedom of Peaceful Assembly, 3<sup>rd</sup> Edition (2020), para 119.</p> <p><sup>[8]</sup> A/HRC/31/66, para 21.</p> <p><sup>[9]</sup> GC 37, para 60. See also A/HRC/17/27, para 53: "Indeed, throughout history, people's willingness to engage in debate on controversial subjects in the public sphere has always been linked to possibilities for doing so anonymously."</p>
19-21	<p>1. The condition that the complainants, as organizers, ought to pay for any damage caused by the protest and to leave the protest location clean generates an undesirable chilling effect and violates the complainants' rights under articles 19 and 21 ICCPR. Such financial disincentives place an undue burden on individuals and organizations, create an undesirable barrier to the right to assembly and thus effectively deter legitimate protest activity. Moreover, anticipating that damage might occur is not consistent with the presumption of peacefulness.</p> <p>2. International bodies have widely recognised that organizers of a protest should not be held responsible for clean-up after a protest as this is, pre-eminently, a responsibility of the government. In GC 37, your Committee states that "[r]equirements for participants or organizers either to arrange for or to contribute towards the costs of policing or security, medical assistance or <u>cleaning</u>, or other public services associated with peaceful assemblies are generally not compatible with article 21".<sup>[1]</sup> Moreover, in a joint report on the proper management of assemblies, two UN Special Rapporteurs contend that it is the responsibility of the authorities to provide for "<u>basis services, including (...) clean-up services</u>. Organizers should not be held responsible for the provision of such services, nor should they be required to contribute to the cost of their provision."<sup>[2]</sup> In a report on the Monitoring of Freedom of Peaceful Assembly, the Organisation for Security and Cooperation in Europe ('OSCE') also asserts that municipal authorities bear the responsibility and financial burden for routine clean-up after an assembly.<sup>[3]</sup></p> <p>3. The OSCE/ODIHR Guidelines furthermore emphasize that, the authorities "may not levy charges on assembly organizers for providing relevant services, including (...) street cleaning. Nor may it make facilitation of an assembly contingent on the payment of any such charges."<sup>[4]</sup> The Guidelines also underscore the chilling effect of such (financial) clean-up provisions:  <i>"Imposing charges on assembly organizers may constitute a disproportionate prior restraint and may dissuade people from holding assemblies".</i><sup>[5]</sup></p> <p>4. Furthermore, it is international consensus that although organizers have a responsibility to make reasonable efforts to comply with legal requirements and ensure that an assembly is peaceful, they should not be held criminally, civilly or administratively liable for the behaviour of individual participants.<sup>[6]</sup> The principle of individual liability of participants is a fundamental element of the freedom of assembly, which has been confirmed in multiple reports by UN Special Rapporteurs, stating that "organizers of peaceful assemblies should never be held liable for the unlawful behaviour of others".<sup>[7]</sup> The OSCE/ODIHR Guidelines also reiterate this principle.<sup>[8]</sup> The rationale behind the principle of individual liability is that it would be a "manifestly disproportionate response" to impose responsibility on organizers of an assembly "for acts by other individuals over whom they exercised no personal control (including possible agents provocateurs) and which could not have been reasonably foreseen."<sup>[9]</sup> Furthermore, it would "weaken trust and co-operation between assembly organizers, participants and the authorities, and discourage potential assembly organizers from exercising their rights."<sup>[10]</sup> The rejection of strict liability or collective responsibility also aligns with the principle that organizers of non-commercial public assemblies should not be required to obtain a public liability insurance.<sup>[11]</sup></p> <p>5. In its judgment, the Council of State declared the complainants' claims on these aspects inadmissible. According to the Council of State, clean-up and damage provisions do not create any rights or obligations nor are they intended to have any legal effect. They should, therefore, be considered as "statements of fact". According to the Council of State, the obligations to pay for clean-up or damages do not arise from the primary decision, but from the</p>

Article	Please explain how and why you consider that the facts and circumstances described violate your rights/ the alleged victim(s)' rights. Please specify which rights you consider to have been violated. You should try to separate different allegations under different articles.
	<p>law directly.<sup>[12]</sup> The complainants consider this legal reasoning fundamentally flawed. As previously outlined, international bodies have widely recognised that organizers of a protest should not be held liable for clean-up after a protest or for any damages incurred. Since these obligations were explicitly included in the primary decision (under the heading “all conditions and restrictions”), the complainants had to assume its legal validity and that it would entail both legal and factual consequences. Moreover, throughout all stages of the domestic legal procedure, it has remained entirely unclear for the complainants which provisions under national law would in fact formulate these damage obligations. This violates the principle of legality.<sup>[13]</sup></p> <p>6. The Council of State moreover fails to acknowledge the chilling effect of these conditions. The complainants seriously considered cancelling the protest because of concerns over potentially large clean-up and damage claims. In this context, it should be remarked that clean-up and damages obligations regularly appear to be imposed as standard provisions; not only in Heerlen but in an increasing number of Dutch municipalities.<sup>[14]</sup> Such provisions disproportionately deter smaller groups with little financial resources from exercising their right to peaceful assembly, thus marginalizing grassroots movements and community-based organizations.</p> <p>7. Finally, since both the District Court and the Council of State deemed the complainants’ appeal on this element inadmissible, the legality of these clean-up and damage provisions has not been substantially examined, which technically leaves the complainants without effective legal remedy. Given that the conditions have had a chilling effect, and that the complainants have indeed perceived this aspect as a restriction of their fundamental right to freedom of assembly, judicial review is of particular importance.</p> <p>8. In conclusion, the complainants should not have been held responsible for clean-up or potential damages caused by the Climate Alarm 2021, nor should they have been required to contribute to the costs thereof. This condition is not proportionate nor necessary, and as such violates their rights under articles 19 and 21 ICCPR.</p> <p><sup>[1]</sup> GC 37, para 64 (underlining added).</p> <p><sup>[2]</sup> A/HRC/31/66, para. 40 (underlining added).</p> <p><sup>[3]</sup> OSCE/ODIHR, ‘Report Monitoring of Freedom of Peaceful Assembly in Selected OSCE Participating States’, 7 Feb 2025, p. 17.</p> <p><sup>[4]</sup> OSCE/ODIHR, Guidelines on Freedom of Peaceful Assembly, 3<sup>rd</sup> Edition (2020), para 89.</p> <p><sup>[5]</sup> OSCE/ODIHR, Guidelines on Freedom of Peaceful Assembly, 3<sup>rd</sup> Edition (2020), para 89.</p> <p><sup>[6]</sup> A/HRC/31/66, para 26-27 ; OSCE/ODIHR, Guidelines on Freedom of Peaceful Assembly, 3<sup>rd</sup> Edition (2020), para 224.</p> <p><sup>[7]</sup> A/HRC/23/39, para 78; A/HRC/31/66 para 26; A/HRC/20/27, para 31.</p> <p><sup>[8]</sup> OSCE/ODIHR, Guidelines on Freedom of Peaceful Assembly, 3<sup>rd</sup> Edition (2020), para 224.</p> <p><sup>[9]</sup> OSCE/ODIHR, Handbook on Monitoring Freedom of Peaceful Assembly, 2<sup>nd</sup> Edition (2020), p. 65.</p> <p><sup>[10]</sup> OSCE/ODIHR, Handbook on Monitoring Freedom of Peaceful Assembly, 2<sup>nd</sup> Edition (2020), p. 65.</p> <p><sup>[11]</sup> OSCE/ODIHR, Guidelines on Freedom of Peaceful Assembly, 3<sup>rd</sup> Edition (2020), para 155.</p> <p><sup>[12]</sup> Annex 10, para 4.1.</p> <p><sup>[13]</sup> The principle of legality requires that the law in question is sufficiently precise and publicly accessible.</p> <p><sup>[14]</sup> Amnesty International Netherlands, <i>The right to protest under pressure. Regulations and practice in the Netherlands must improve</i>, nov. 2022, p. 38-39, 41.</p>

## Interim Measures

Request interim measures

No

If the author or alleged victim is at risk or irreparable harm or reprisals, you may request interim measures or measures of protection.

Not Available

If known, please provide the date in which the alleged irreparable harm is expected (for example date of deportation)






## Additional Comments

The ruling of the Council of State in the present case has a negative effect on the protection of the freedom of assembly and freedom of speech within the Netherlands. Such a ruling may contribute to an increase in protest restrictions in other municipalities. It is therefore of fundamental importance, not only for the complainants, but for Dutch society as a whole, that your Committee provides clarity on the permissibility of such restrictions.

The complainants accordingly request your Committee to order the State Party to:

- a. take appropriate steps to provide the complainants with adequate compensation;
- b. take steps to prevent similar violations occurring in the future;
- c. provide the Committee with information about the measures taken to give effect to the Committee’s Views within 180 days;
- d. publish the Views and have them widely disseminated.

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## Signature

