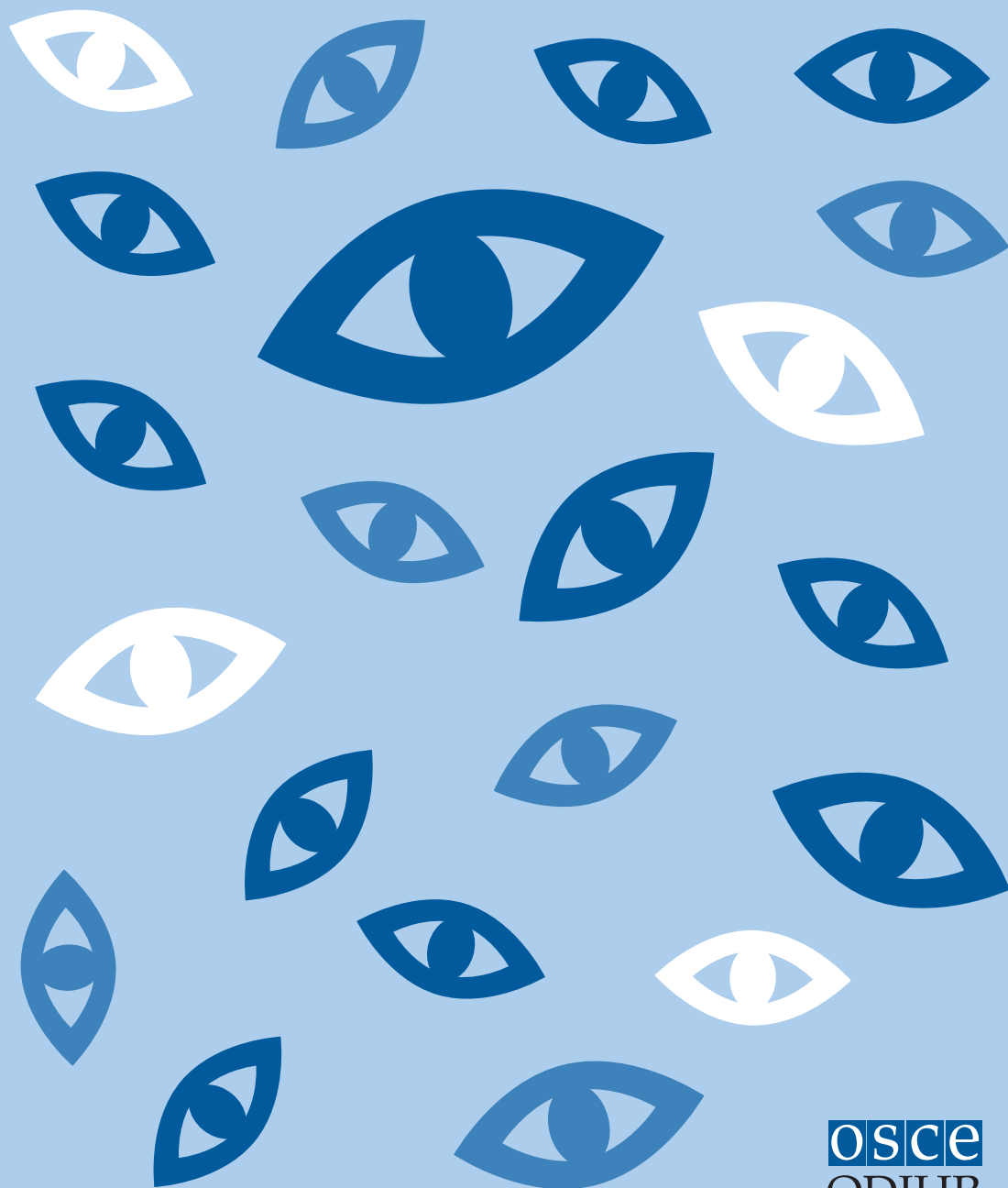


# Handbook on Monitoring Freedom of Peaceful Assembly



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## Foreword

The right to assemble peacefully rests at the core of functioning democratic systems, and is closely related to other cornerstones of democracy and pluralism, such as freedom of expression and freedom of association. It is enshrined in a number of international human rights instruments and guaranteed in the OSCE's Copenhagen Document of 1990.

The OSCE Office for Democratic Institutions and Human Rights (ODIHR), often in co-operation with the Council of Europe, has been active in providing legislative and other assistance to OSCE participating States to ensure that public assemblies are regulated and policed in line with international human rights standards. As part of this work, ODIHR and the Council of Europe's Commission for Democracy through Law (the Venice Commission) have developed the Guidelines on Freedom of Peaceful Assembly, first published in 2007 and revised in 2010. This Handbook draws from the Guidelines and is intended as a tool to support civil society actors in their effort to contribute to strengthened implementation of human rights through monitoring and reporting on freedom of assembly.

The Handbook builds on the experience acquired through a series of projects implemented by ODIHR and its partners, and aimed at training human rights NGOs in international standards and monitoring techniques relating to freedom of assembly. In particular, it is based on a training programme for assembly monitors that has been offered in a number of OSCE participating States, where observers carried out the systematic monitoring of public events over a period of several months.

The Handbook is intended as a practical tool to help NGOs collect reliable information through the monitoring of public gatherings. Assemblies take place in public places

and, as such, allow for the direct observation of the conduct of and interaction between the participants, law-enforcement agents, other public authorities and other relevant actors. The Handbook places an emphasis on the need to base assembly-monitoring reports on first-hand information collected in adherence with the principles of transparency, accuracy and impartiality.

ODIHR-supported freedom of assembly monitoring projects have shown that well-documented monitoring reports can be used to engage in a constructive dialogue with the authorities in the states concerned and to devise targeted programmes of assistance. They are an important source of information not only for human rights NGOs carrying out their advocacy work, but also for policymakers at all levels, who can use the data collected to identify existing gaps in law, policy and practice, as well as to provide examples of good practice.

Civil society plays an important role in helping participating States to ensure full respect for human rights and fundamental freedoms. ODIHR's hope is that this Handbook will be a useful practical guide for civil society actors engaged in monitoring public assemblies and will inspire new initiatives in this area.

Ambassador Janez Lenarčič

Director, OSCE Office for Democratic Institutions and Human Rights (ODIHR)

## 1. Introduction

Freedom of peaceful assembly is a fundamental human right that has a firm basis in international human rights law and was reaffirmed by OSCE participating states in the 1990 Copenhagen Document. The right to assemble, demonstrate, picket, rally, march and protest is an important aspect of all democratic societies. As such, the freedom of peaceful assembly is associated with the right to challenge the dominant views within society, to present alternative ideas and opinions, to promote the interests and views of minority groups and marginalized sections of society, and to provide an opportunity for individuals to express their views and opinions in public, regardless of their power, wealth or status.

Public assemblies can be particularly important and prominent at times of political tension or when citizens are making demands for social change. Demonstrations and protests are often used in a variety of campaigns by political groups and are generally an important aspect of election campaigns. They can also be an important means of calling for change in contexts where more institutional mechanisms for effecting social change are not available.

Participation in public assemblies is a political right, the realization of which can give a public voice to those without access to their legislative bodies, those who lack representation through elections, or those with little or no opportunity to voice their opinions through the media. Furthermore, the right to peaceful assembly can play an instrumental role in building support for change or reforms, or in voicing discontent. In most cases, however, the mobilization of people through a public assembly is the most direct means of trying to influence government, reflect local opinion, or express views as part of the regular political process.



Freedom of peaceful assembly is an individual right that is always expressed in a collective manner. Such collective manifestations of individual views can be perceived as particularly threatening to the authorities in some contexts. And, because assemblies take place in public spaces and are used by diverse organizations, groups and individuals, they are very visible indicators of the level of tolerance and respect that is given to different political, social and cultural practices and beliefs. A government's approach to assemblies can provide a clear indication of the respect that the state has for basic human rights. Indeed, exercising freedom of assembly often involves the exercise of other rights, including the freedoms of expression, religion and movement. At the same time, the prevention of assemblies might also go hand in hand with violations of the right to life, the right to be free from torture and the right to a fair trial.

When restrictions on the freedom of peaceful assembly take place, such actions usually have high visibility. They have an impact on a large number of people at the same time, and they are often widely reported in the media. They might provoke an immediate and public response, which might lead to a spiralling cycle of protest, repression and violence. The very visibility of freedom of peaceful assembly creates opportunities for monitoring the level of a state's respect for this right and for documenting any infringements on the right to freedom of peaceful assembly and associated rights.

OSCE participating states have recognized that NGOs can perform a vital role in the promotion of human rights, democracy and the rule of law (Istanbul 1999). This has been reaffirmed in the Astana Commemorative Declaration of 2010, which states that participating States value the important role played by civil society and free media in helping them to ensure "full respect for human rights, fundamental freedoms, democracy, including free and fair elections, and the rule of law". In this context, civil society organizations can engage in monitoring the human rights situation in their country with respect to international human rights standards by producing reports based on their findings. These reports might highlight human rights issues, contribute to public discourse on human rights, and, ideally, lead to dialogue between civil society and government, with the objective of advancing human rights and producing social change.

As with all human rights, the primary responsibility to promote and protect freedom of assembly lies with the state, but civil society organizations have a crucial role to play in monitoring the implementation of this freedom. Monitoring public assemblies is a complex operation, and monitors might focus on a variety of aspects, e.g., the policing of an event, including whether the state is fulfilling its positive obligations to uphold the freedom of assembly; whether parties adhere to any agreement reached as to the conditions for an assembly; the interaction between participants in a demonstration and counter-demonstrators; and the conduct of participants in an assembly near a particular location. The findings can highlight patterns of good practice, as well as

shortcomings and gaps in law, policy and practice in the management and policing of assemblies that require improvement.

In addition, the presence of monitors may, in some cases, have a deterrent effect by helping to ensure that the police and other state authorities act in the most appropriate manner in a public setting, in line with international human rights principles and standards.

When embarking on a monitoring project, it is important to think in advance of how the monitoring findings, and any recommendations stemming from them, will be used nationally and internationally as part of a strategy to effect change, if necessary. To this end, a preliminary analysis of existing legislation, of relevant actors and stakeholders, and of ways to influence them should be conducted. This analysis might also determine areas of particular focus for the monitoring (thematic, geographic, or both).

This handbook was produced by ODIHR as a guide for civil society organizations that might initiate independent monitoring of peaceful assemblies in their own country. It draws and builds on the ODIHR and Venice Commission *Guidelines on Freedom of Peaceful Assembly*, which are attached as an appendix at the end of this handbook, and which identify core issues in the exercise of freedom of peaceful assembly and set out a number of guiding principles that should govern its regulation. It also draws on extensive monitoring experience in numerous countries to outline the key human rights principles related to freedom of assembly and provide guidance on organizing monitoring projects, monitoring at assemblies, and producing reports to highlight the issues that are raised.

This handbook sets out a methodology for monitoring events and activities that take place in the run-up to and during assemblies, i.e., events that generally take place in public spaces and that are largely accessible to all. This methodology involves the gathering of first-hand information by observers able to witness the conduct of and interaction among participants in assemblies, law-enforcement agents and other relevant state and non-state actors.

It should be noted that, following an assembly, further actions by the state and its officials might be aimed at restricting the full enjoyment of the right to freedom of assembly and might constitute violations of other human rights. For instance, the response by the state to assemblies might include arbitrary detentions, torture and other ill-treatment, as well as the prosecution of participants in assemblies for acts that only resulted from their exercise of freedom of peaceful assembly. For this reason, to obtain a full and comprehensive picture of the human rights consequences of state response to assemblies, other forms of human rights monitoring might be required,

such as detention and trial monitoring and/or the gathering of information through interviews and other sources. These activities are beyond the scope of this handbook, which only discusses the monitoring of events taking place immediately before and during assemblies.

## 2. Definition of an Assembly

According to the *Guidelines on Freedom of Peaceful Assembly* (hereafter “the Guidelines”), published by ODIHR and the Venice Commission of the Council of Europe in 2010, an assembly is “an intentional and temporary presence of a number of individuals in a public place, for a common expressive purpose”.<sup>1</sup> This definition highlights the fact that the right to assemble assumes that an assembly is for the purpose of conveying a message. That message might be aimed at an individual, a group, an organization or at society in general. Such assemblies usually take place in open public spaces, such as streets, squares, parks or other such locations.

This does not mean that assemblies held inside buildings or on private property are not subject to protection (see *Cisse v. France*, 2006, and *Açik and Others v. Turkey*, 2009). Rather, they are usually subject to different regulations, and there is a greater presumed right to use open public spaces for all forms of public assembly.

Although an assembly, by definition, requires the presence of more than one person, an individual protester exercising his or her right to freedom of expression, where the protester’s physical presence is an integral part of that expression, should also be afforded the same protections as those who gather together as part of an assembly.

In fact, the freedom of peaceful assembly covers a broad variety of gatherings, including:

- static assemblies, such as meetings, mass actions, rallies, sit-ins, pickets and flash mobs;

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<sup>1</sup> OSCE/ODIHR, *Guidelines on Freedom of Peaceful Assembly. Second Edition* (Warsaw: ODIHR, 2010), p. 15, para 1.2.

- moving assemblies, such as parades, marches and processions; and
- combinations of static and moving assemblies.<sup>2</sup>

This right may also cover other types of gatherings, for example:

- some funerals, as they might have, or might take on, political overtones and be used as public demonstrations;
- open-air religious assemblies; and
- movements of people in vehicles, such as convoys or mass cycle rides, as these might also be used as a means of demonstration or protest.

Assemblies are temporary activities, but there is no clear definition of the concept of “temporary” and how long assemblies might last. Some assemblies, such as flash mobs, might last only a very short time, and most assemblies will not last for more than a few hours. Others might last longer. Erecting and keeping protest camps or other non-permanent constructions can, thus, be included within the idea of an assembly, and such activities may continue for several days (*Cisse v. France*, 2006) or involve recurrent assemblies over a period of years (*Affaire Çiloğlu et Autres c. Turquie*, 2007), but they are still considered temporary peaceful assemblies.

Some assemblies might take place as spontaneous or urgent responses to events, speech, or other activity and might, thus, create unpredictable situations for the authorities. In a recent case, the European Court of Human Rights (*Éva Molnár v. Hungary*, 2008) stated that eight hours might be considered a reasonable period of time for the participants in a spontaneous assembly to make their protest and that the police decision to disperse the assembly after such a time was not unreasonable.

Furthermore, the Court has also acknowledged that public assemblies may cause some level of temporary interference with, or disruption to, routine daily activities (*Oya Ataman v. Turkey*, 2007, para. 38). If an assembly is an important element of life in a democratic society, then those assembling have as much right to the use of public spaces as people involved in other activities. Thus, assemblies may temporarily disrupt vehicular and pedestrian traffic and may have a temporary impact on business activities and other urban activities, although, as noted above, assemblies are, by definition, temporary activities and, thus, the scale of any disruption must also be balanced by protecting the rights of others.

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<sup>2</sup> Note that the name given to similar forms of assembly may vary in different countries.

## Peaceful Assemblies

Only peaceful assemblies are protected under law. However, it should be noted that an assembly will be deemed peaceful as long as the participants remain peaceful, even if the organizers have not complied with all legal requirements prior to the assembly (*Oya Ataman v. Turkey*, 2007).

The concept of a peaceful assembly excludes any assembly that involves the use of force in any way, or events that plan to use force, threaten the use of force or incite people to use force (*Osmani and Others v. FYR of Macedonia*, 2001). Weapons or items that might be used as weapons should not be taken to assemblies. However, the individual rights of peaceful participants are not affected by acts of violence by others (*Ezelin v. France*, 1991). Thus, the state response to disorder and violence must always be proportionate to the actions taken by the protestors.

The peaceful intention of the organizers is not undermined by the possibility that an assembly might provoke opposition among some sectors of society; rather, the importance of public assemblies as means of conveying controversial viewpoints means that assemblies might well cause offence or annoyance among other groups or individuals. The European Court of Human Rights has noted that the state has a responsibility to take "appropriate measures" to protect those who are exercising their right to freedom of peaceful assembly from the aggressive actions of others (*Ouranio Toxo and Others v. Greece*, 2005, para. 43).

### 3. International Human Rights Principles

Freedom of peaceful assembly is identified as a fundamental freedom in the Universal Declaration of Human Rights and is included in all the major international and regional human rights instruments. For OSCE participating States, the main general instruments are the International Covenant on Civil and Political Rights (ICCPR),<sup>3</sup> the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) and the optional protocols thereto,<sup>4</sup> the American Convention on Human Rights (ACHR),<sup>5</sup> and the Commonwealth of Independent States (CIS) Convention on Human Rights and Fundamental Freedoms.<sup>6</sup> The key provisions in relation to the right to freedom of peaceful assembly are:

#### **Article 20, Universal Declaration of Human Rights (1948)**

“1. Everyone has the right to freedom of peaceful assembly and association.”

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<sup>3</sup> The ICCPR sets out universally accepted minimum standards in the area of civil and political rights. The obligations undertaken by states ratifying or acceding to the Covenant are meant to be discharged as soon as a state becomes party to the ICCPR. The implementation of the ICCPR by states parties is monitored by a body of independent experts, the UN Human Rights Committee. All states parties are obliged to submit regular reports to the Committee on how the rights are being implemented.

<sup>4</sup> The ECHR is the most comprehensive and authoritative human rights treaty for the European region. All member states of the Council of Europe are required to ratify the Convention within one year of the state's accession to the Statute of the Council of Europe. The ECHR sets forth a number of fundamental rights and freedoms, and parties to it undertake to secure those rights and freedoms for everyone within their jurisdiction.

<sup>5</sup> The American Convention on Human Rights was adopted by the nations of the Americas meeting in San José, Costa Rica, in 1969 and came into force on 18 July 1978. The bodies responsible for overseeing compliance with the Convention are the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights, both of which are organs of the Organization of American States.

<sup>6</sup> The CIS Convention on Human Rights and Fundamental Freedoms was adopted in Minsk in May 1995 and has been ratified by Belarus, the Russian Federation, Tajikistan and Kyrgyzstan.

**Article 21, International Covenant on Civil and Political Rights (1966)**

“The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order, the protection of public health or morals or the protection of the rights and freedoms of others.”

**Article 11, European Convention for the Protection of Human Rights and Fundamental Freedoms (1950)**

“1. Everyone has the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and join trade unions for the protection of his interests.

2. No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others. This article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces, of the police or of the administration of the state.”

**Article 15, American Convention on Human Rights (1969)**

“The right of peaceful assembly, without arms, is recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and necessary in a democratic society in the interest of national security, public safety or public order, or to protect public health or morals or the rights or freedoms of others.”

**Article 12, CIS Convention on Human Rights and Fundamental Freedoms (1995)**

“1. Everyone shall have the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of his interests.

2. No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, public order, public health or morals or for the protection of the rights and freedoms of others. This Article shall not preclude the imposition of lawful restrictions on the exercise of these rights by members of the armed forces or by members of the law-enforcement or administrative organs of the State.”

The right to freedom of peaceful assembly applies not just to adults but also to children, as is noted by the **United Nations Convention on the Rights of the Child** (1989) (this



applies to all those below the age of 18, unless the age of legal majority is lower in the jurisdiction in question). Article 15 of the Convention states:

“1. State parties recognize the rights of the child to freedom of association and to freedom of peaceful assembly.”

The right of human rights defenders to peaceful assembly is highlighted in Article 5 (a) of the **UN Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (1999)**, which states:

“For the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right, individually and in association with others, at the national and international levels:

(a) To meet or assemble peacefully.”

It is important to recognize that, while freedom of peaceful assembly is a fundamental freedom, the state has some degree of discretion in imposing limitations or restrictions on a small number of clearly set-out grounds that are named in binding international human rights instruments. The decisions of the European Court of Human Rights and the UN Human Rights Committee provide further guidance on the appropriate and reasonable boundaries of the right to freedom of assembly, which are reviewed in the next chapter.<sup>7</sup>

### **OSCE Commitments on Freedom of Assembly**

The OSCE has affirmed the right of peaceful assembly through its various politically binding commitments. For example, the Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE (1990) stipulates that:

“(9) The participating States reaffirm that: ...

(9.2) – everyone will have the right of peaceful assembly and demonstration. Any restrictions which may be placed on the exercise of these rights will be prescribed by law and consistent with international standards... ”

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<sup>7</sup> The Inter-American Court on Human Rights has not issued any decisions specifically relating to freedom of assembly. However, a number of documents published by the Inter-American Commission on Human Rights set out the core principles of the right. See, for example, “Report on Citizen Security and Human Rights”, Inter-American Commission on Human Rights, 2009, <<http://www.cidh.oas.org/countryrep/Seguridad.eng/CitizenSecurity.Toc.htm>>; and “Report on the Situation of Human Rights Defenders in the Americas”, Inter-American Commission on Human Rights, 2006, <<http://www.cidh.oas.org/countryrep/Defenders/defenderstoc.htm>>.

The OSCE Ministerial Declaration on the occasion of the 60th anniversary of the Universal Declaration of Human Rights<sup>8</sup> reiterated that:

“... everyone has the right to ... freedom of peaceful assembly ... . The exercise of this right may be subject to only such limitations as are provided by law and consistent with our obligations under international law and with our international commitments.”

### **Other Related Rights and Freedoms**

The European Court of Human Rights has stated that the ECHR is to be read as a whole, and that the application of any individual article must be in harmony with the overall logic of the Convention and the various other rights and freedoms established in it. The right to freedom of assembly is, thus, closely associated with several other fundamental rights and freedoms.

In particular, freedom of assembly is often associated with *freedom of expression*, which is protected under Article 19 of the ICCPR, Article 10 of the ECHR, Article 13 of the ACHR and Article 11 of the CIS Convention; and the right to *freedom of thought, conscience and religion*, protected by Article 18 of the ICCPR, Article 9 of the ECHR, Article 12 of the ACHR and Article 10 of the CIS Convention, as the right to assemble necessarily involves the aim of communicating a message or expressing a view or an opinion to another party. The European Court of Human Rights has argued that the state has a positive obligation to protect the rights of people holding or wishing to express unpopular or minority views and who might be vulnerable to victimization (*Bączkowski and Others v. Poland*, 2006, para. 68).

The right to freedom of peaceful assembly is also closely associated with the right to *freedom of association*, which is included within Article 22 of the ICCPR, Article 11 of the ECHR, Article 16 of the ACHR and Article 12 of the CIS Convention. The right to associate in a political party, a trade union (which includes the right to strike) or in other organizations is often a prerequisite to the organization of an assembly, and unnecessary or disproportionate restrictions imposed on the right to associate might also result in restrictions on the right to assemble. Restrictions on the right to associate, through such mechanisms as the requirement to register, the refusal to accept or to formalize registration, the enforced disbanding or prohibition of an association or the

<sup>8</sup> Adopted at the Ministerial Council in Helsinki on 5 December 2008. Text available at <<http://www.osce.org/mc/35476>>. A thematic compilation of Human Dimension OSCE commitments can be found at: <<http://www.osce.org/odihr/elections/16363>>.

introduction of onerous financial demands, might all be considered as indirect restrictions on the right to assemble.

**Other rights, such as the right to life, liberty and security; the right to a fair trial; and the right to freedom of movement, might also be adversely affected by restrictions on freedom of peaceful assembly.** Furthermore, all rights and freedoms must be protected without discrimination, as stated in Article 14 of the ECHR (and similarly in Article 2 of the ICCPR, Article 1 of the ACHR and Article 20 of the CIS Convention).

**Article 14, ECHR: Prohibition of Discrimination**

“The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any grounds such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.”

Finally, it is also important to recognize that there is an interrelationship between the various rights and freedoms set out in Article 14 of the ECHR and the limitation on the use of restrictions on those rights.

**Article 17, ECHR: Prohibition of abuse of rights**

“Nothing in this Convention may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms set forth herein or at their limitation to a greater extent than is provided for in the Convention.”

**Article 18, ECHR: Limitation on use of restrictions on rights**

“The restrictions permitted under this Convention to the said rights and freedoms shall not be applied for any purpose other than those for which they have been prescribed.”

**Limitations on Freedom of Assembly**

Although the freedom of peaceful assembly is a fundamental freedom, it can be legitimately restricted in practice on a number of grounds, including threats to national security, public safety and order, and to the rights and freedoms of others. However, any such restrictions must be:

- clearly explained on the basis of legitimate grounds set out in Article 11 (2) of the ECHR and/or Article 21 of the ICCPR;
- prescribed by law; and
- deemed necessary in a democratic society.

Each state has a degree of independence in interpreting what constitutes legitimate grounds, the legal prescription and the necessity of imposing any restrictions through local laws, administrative processes or policing practice. Monitors should, therefore, always also be familiar with the relevant local laws and recent practice.

However, any restrictions that are imposed on freedom of assembly are open to challenge and appeal through domestic and/or international courts. Over the years, the European Court of Human Rights has deliberated on a number of cases and, in so doing, has clarified a number of contentious issues, while other basic principles of practice have been established through domestic institutions and courts.

## 4. Regulating Freedom of Peaceful Assembly

According to the Guidelines, the first guiding principle is that:

“As a fundamental right, freedom of peaceful assembly should, insofar as possible, be enjoyed without regulation. Anything not expressly forbidden in law should be presumed to be permissible, and those wishing to assemble should not be required to obtain permission to do so. A presumption in favour of the freedom should be clearly and explicitly established in law.”<sup>9</sup>

This does not prevent a state from requiring prior notification of an assembly, which is a perfectly reasonable expectation in order to facilitate the maintenance of public order (*Rassemblement Jurassien v. Switzerland*, 1979). This should, however, always be a process of notifying the authorities of intent rather than seeking permission.

The second principle states that:

“It is the primary responsibility of the state to put in place adequate mechanisms and procedures to ensure that the freedom is practically enjoyed and not subject to undue bureaucratic regulation. In particular, the state should always seek to facilitate and protect public assemblies at the organizers’ preferred location and should also ensure that efforts to disseminate information to publicize forthcoming assemblies are not impeded.”<sup>10</sup>

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<sup>9</sup> OSCE/ODIHR, *Guidelines on Freedom of Peaceful Assembly*, *op. cit.*, p. 15.

<sup>10</sup> *Ibid.*

There is no clearly set-out expectation of how much notification is reasonable; rather, notification should be given with sufficient time for the consideration by the authorities of any difficulties that might be caused by the assembly or any potential problems that might result from it. The notification process should also require that officials give prompt notice of any restrictions that will be imposed, in order to give organizers sufficient time to challenge any restrictions – through the courts or other independent bodies – that might be imposed, on the grounds that they are unnecessary or disproportionate. Taken together, the definition and first two principles set out a positive obligation for the state to protect and facilitate the right to freedom of assembly, rather than impose unnecessary or disproportionate limits on it. This includes a responsibility to provide police resources to protect assemblies and manage traffic, and to respond reasonably to spontaneous, simultaneous and unlawful assemblies.

These principles mean that the authorities should try to ensure that if two or more organizations wish to assemble in close proximity, or if one group plans to protest against another assembly, such events should be facilitated where possible. In some countries, the authorities have cited the proposed use of a public space by another event as a reason for banning an assembly. In the case of *Öllinger v. Austria* (2006), however, the European Court of Human Rights emphasized that, wherever possible, the authorities should take measures to ensure that all assemblies can take place, rather than use the notification of simultaneous assemblies as a justification for imposing restrictions.

The authorities should also allow for assemblies to take place without any notification in certain circumstances, such as when people need to respond urgently to a piece of news or an unexpected event, and it is not possible to meet the requirements of the notification period (*Éva Molnár v. Hungary*, 2008). Spontaneous assemblies should not be used to avoid the formal legal requirements to notify, but should be regarded as a normal (rather than exceptional) feature of a healthy democracy. As such, the authorities should protect and facilitate spontaneous assemblies so long as they are peaceful in nature.

The importance of the state protecting the right to peaceful assembly has also been emphasized by the European Court of Human Rights in a number of cases where the authorities have forcibly dispersed peaceful assemblies because they failed to comply with the notification requirements. In the cases of *Oya Ataman v. Turkey* and *Balçık v. Turkey* (both 2007), the European Court stressed that “where demonstrators do not engage in acts of violence it is important for the public authorities to show a certain degree of tolerance”, and that the police should refrain from the use of force to disperse participants. This does not prevent the organizers or participants from being subject to legal proceedings for violating applicable notice requirements.

## Restricting Freedom of Peaceful Assembly

At times, it may be both necessary and reasonable for the authorities to impose restrictions on peaceful assemblies. Article 11.2 of the ECHR sets out the conditions under which assemblies may be restricted:

“No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of:

- national security or public safety,
- for the prevention of disorder or crime,
- for the protection of health or morals or
- for the protection of the rights and freedoms of others.”

The Guidelines emphasize the importance of avoiding unnecessary restrictions, and any restrictions that are imposed must be based on clear evidence, be compatible with international human rights law, and be set out in a manner that is precise and comprehensible. Furthermore, any restrictions should be proportionate and should be the least intrusive means of restriction or restraint to address the authorities’ concerns.

A threat to public order is the most frequently cited reason for prohibiting or imposing broad restrictions on assemblies but, as noted above, the focus should be on the stated intentions of the organizers rather than the mere possibility of disorder, and the responsibility remains with the authorities to maintain order and facilitate public assemblies (*Güneri and Others v. Turkey*, 2005). Thus, the authorities should be expected to put in place appropriate measures to enable a peaceful assembly to take place, rather than using the possibility of disorder to restrict or prohibit the assembly.

Nevertheless, restrictions may legitimately be imposed on an assembly in the form of reasonable regulation of time, place and manner, i.e., by imposing some restriction on the assembly’s time, form and location. However, wherever possible, such restrictions should only be imposed following dialogue or consultation with the organizers, and an alternative time or venue should be offered instead of the imposition of a total ban on the assembly. In some contexts, it might also be necessary to impose restrictions on the date on which a planned assembly is to be held. In such situations, a date as close as possible to the preferred option should be offered as an alternative.

The decision to prohibit a peaceful assembly should always be based on clear and verifiable evidence and should be a matter of last resort. Prohibitions should only ever be imposed in response to a serious threat of violence and disorder associated with a particular assembly, and the state should not inflate the risk of violence as a means of simply preventing an assembly from taking place (*Makhmudov v. Russia*, 2007).

Blanket prohibitions on assemblies may be considered disproportionate and should only be imposed in extreme circumstances. It is not uncommon for the authorities to unnecessarily restrict assemblies close to prominent public locations, such as a parliament building, presidential offices or other important public places, due to concern about disruptions to other people or the work of the state. However, it is almost always possible to facilitate an assembly in a manner that allows the day-to-day affairs of the government and other bodies to take place simultaneously (*Sergey Kuznetsov v. Russia 2008*).

Another key principle is that an assembly should be allowed to take place within sight and sound of its target subject. Assemblies are always expressive activities, and to prevent or unduly restrict participants from conveying their message effectively to their target audience serves to undermine the fundamental nature of the right. Therefore, forcing assemblies to take place too far from the target of their message or prohibiting the use of some form of sound amplification might effectively be a means of denying the right to assemble.

Similarly, it is never acceptable to force assembly organizers to relocate or hold their events in remote locations, away from the centre of cities or the target audience. In some countries, the authorities have designated special sites for holding assemblies that are often in remote and relatively inaccessible places. This inevitably limits the number of people who might attend and also undermines the principle that assemblies should take place within sight and sound of their target, and thus limits the effectiveness of the assembly.

Finally, it is important that the administration associated with public assemblies be transparent and that the organizers of assemblies know who is making decisions and how those decisions are made. In some countries, decisions about assemblies are made in meetings that are open to the public. The organizers of assemblies should also have an opportunity to challenge any concerns raised by the police or other bodies and should be able to appeal any restrictions in court.



## 5. The Policing of Assemblies

The police have the primary responsibility to protect the right to freedom of peaceful assembly and also to ensure that public order is maintained in a reasonable manner during an assembly (*Ouranio Toxo and Others v. Greece*, 2005). However, while the state should take reasonable and appropriate measures to ensure that an assembly may proceed peacefully, it cannot be expected to provide an absolute guarantee that violence will not occur or that those participating might not face some level of aggression (*Plattform "Ärzte für das Leben" v. Austria*, 1988).

The policing of public assemblies is a particular activity that requires different skills and abilities from routine policing. In particular, it requires the balancing of competing interests and rights, and it is, therefore, important that police officers are well trained in both human rights and crowd-management principles and practices, and that they are appropriately equipped both to provide protection and to maintain order.

It is important to note that many assemblies will cause some degree of disruption to daily routines, but the street and other public spaces are legitimate sites for assemblies as much as they are public thoroughfares for vehicles and pedestrians. The police should aim to balance the competing needs of the users of public space rather than to restrict the actions of participants in public assemblies (*Oya Ataman v. Turkey*, 2007).

A police presence needs to be proportionate to the situation, so the police might be deployed in larger numbers than appear necessary or be deployed wearing protective clothing or riot gear in a manner that appears confrontational and serves to intimidate. It has been noted in many countries that inappropriate or excessive police interventions can actually lead to violence and disorder, instead of reducing tensions.

Good practice suggests that a process of dialogue and negotiation should be used to deal with any problems at assemblies, and that the police should maintain contact with the assembly organizers throughout the event to ensure that emerging problems or difficulties are dealt with swiftly, before they can become serious issues and require more aggressive intervention.

Restrictions may be imposed by the authorities during an event if the assembly or its participants become disorderly. It might be appropriate to draw upon bodies like an ombudsman's office to mediate in such situations. Restrictions should not be imposed on the content of speeches or any visual displays, except in extreme situations where they promote hatred towards certain groups or where they incite imminent acts of violence (*Osmani and Others v. the former Yugoslav Republic of Macedonia, 2001*). Again, a high threshold should be employed in such circumstances.

As already noted, peaceful assemblies should be facilitated wherever possible, and the enforced dispersal of a public assembly should only take place as a measure of last resort, when violence occurs or when there is an imminent threat of violence. The police should not intervene aggressively simply in response to the actions of a small number of participants. Assemblies are always diverse gatherings, and participants do not lose their individual rights simply because a small number of people are behaving violently (*Ezelin v. France, 1991*).

The use of force by the police should always be regulated by domestic law. The use of force at an assembly should be proportionate and kept to the minimum level necessary. Any use of force should comply with international standards, including the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

**Basic Principles on the Use of Force and Firearms  
by Law Enforcement Officials**

Adopted by the Eighth United Nations Congress on the Prevention of Crime  
and the Treatment of Offenders, Havana, Cuba,

27 August to 7 September 1990.

General Assembly Resolution: 41/149 of 4 December 1986.

**Special provisions**

9. Law enforcement officials shall not use firearms against persons except in self-defence or defence of others against the imminent threat of death or serious injury, to prevent the perpetration of a particularly serious crime involving grave threat to life, to arrest a person presenting such a danger and resisting their authority, or to prevent his or her escape, and only when less extreme means are insufficient to achieve these objectives. In any event, intentional lethal use of firearms may only be made when strictly unavoidable in order to protect life.

**Policing unlawful assemblies**

12. As everyone is allowed to participate in lawful and peaceful assemblies, in accordance with the principles embodied in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, Governments and law enforcement agencies and officials shall recognize that force and firearms may be used only in accordance with principles 13 and 14.

13. In the dispersal of assemblies that are unlawful but non-violent, law enforcement officials shall avoid the use of force or, where that is not practicable, shall restrict such force to the minimum extent necessary.

14. In the dispersal of violent assemblies, law enforcement officials may use firearms only when less dangerous means are not practicable and only to the minimum extent necessary. Law enforcement officials shall not use firearms in such cases, except under the conditions stipulated in principle 9.

The full document is available at:

<<http://www2.ohchr.org/english/law/firearms.htm>>.

Police officers should intervene only in response to illegal actions, and not to prevent or stop a peaceful assembly. Furthermore, police officers should always be held accountable for their actions when policing public assemblies (*Galstyan v. Armenia*, 2007; *Ashughyan v. Armenia*, 2008). Therefore, it is important that each individual officer can be personally identified through some form of number or similar device on the officer's uniform.

### **Responsibilities of Organizers**

The organizers of an assembly also have a responsibility to ensure that the event takes place in a peaceful manner. The organizers should, therefore, liaise with the police before and throughout the event, and should also ensure that they contribute to keeping the assembly orderly and peaceful through by providing stewards to help manage those participating.

The organizers should ensure that the assembly takes place in the manner set out in the notification document, and that the assembly complies with any lawful restrictions that might have been imposed. However, the organizers should not be liable for the actions of individual participants or for acts of violence that might occur at an assembly; rather, as the European Court of Human Rights has noted, individuals shall only be held accountable for their own actions (*Ezelin v. France*, 1991).

### **Monitors and the Media**

Representatives of civil society organizations and other types of monitors have a right to be present at public assemblies and can have a positive role to play in observing compliance with human rights. The authorities have a responsibility to facilitate their presence at such events, and monitors should be permitted to move freely at public assemblies.

Similarly, the media have a right to attend and report on peaceful assemblies, and law-enforcement officials have a responsibility not to prevent or obstruct their work. The OSCE Representative on Freedom of the Media produced a special report on the media and freedom of assembly in 2007, an edited version of which is included as Appendix 2.

## 6. Monitoring: An Overview

“Monitoring’ is a broad term describing the active collection, verification and immediate use of information to address human rights problems ... The term includes evaluative activities ... as well as first hand fact-gathering and other work in the field. In addition, monitoring has a temporal quality in that it generally takes place over a protracted period of time ... ‘Observation’ usually refers to the more passive process of watching events such as assemblies, trials, elections and demonstrations. It is an aspect of human rights monitoring which requires an on-site presence.”<sup>11</sup>

The term “monitoring” is used to describe a range of activities in different contexts and countries. In most cases, monitoring is limited to a process of observation and the production and dissemination of reports based on the findings of the monitoring. A wide range of groups and organizations might be involved in forms of monitoring, including human rights activists, peace campaigners, political activists and journalists. Even the police act as monitors of a sort, in so far as they have responsibility for observing people’s behaviour as part of their work in maintaining public order and protecting human rights. This section begins with a brief overview of the history of monitoring associated with public assemblies and demonstrations, and then goes on to consider the activities of monitors, the aims and objectives of monitoring, and the relationships between monitors and other groups involved in assemblies.

Monitoring as a means of supporting democracy, peace agreements and human rights has become more prominent in recent years. Election monitoring has been a regular

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<sup>11</sup> *Training Manual on Human Rights Monitoring*, (New York: United Nations, Office of the High Commissioner for Human Rights, 2001), p. 9, <<http://www.ohchr.org/Documents/Publications/training7Introen.pdf>>.

practice since World War II, while, more recently, international bodies have become more involved in the monitoring of political transitions.

Domestic groups have been monitoring the freedom of peaceful assembly in a number of participating States for a long time. In recent years, where there has been an increase in legal constraints and police activity aimed at protests, monitoring has again been used as a means of independently documenting restrictions on the right to freedom of assembly. More recently, diverse freedom-of-assembly monitoring projects have been established in a number of participating States, sometimes supported by ODIHR and/or OSCE field presences, in co-operation with other international organizations like the Council of Europe. A similar range of activities have been undertaken by the International Lesbian and Gay Association of Europe, which has published a *Handbook on Observations of Pride Marches* in response to the hostile reaction to pride events by the authorities in certain countries, as well as to insufficient reactions on the part of those authorities to hostile reactions to pride events by others.

### **Monitoring Activities**

One of the distinctive elements of the recent forms of monitoring outlined above is that they require the active mobilization of individual volunteer monitors to attend and observe assemblies, rallies, pickets, protests and demonstrations. Monitoring might involve a variety of activities, depending on the aims and objectives of the monitoring project. These include:

- **Observing:** This is the least intrusive form of monitoring and can involve little more than attending an event and watching what takes place. However, monitoring always differs from simply serving as a spectator, in so far as monitors aim to have an impact on behaviour simply through their presence.
- **Recording and documenting:** Most monitors will record and document a range of activities at an assembly, and they might be more visible because they are working in teams and taking notes or photographs.
- **Reporting:** Most monitoring projects plan and then produce a report based on their findings and experiences. In this respect, monitors have something in common with journalists, whose role is also to observe and comment on public affairs (see Appendix 2: The Media and Freedom of Assembly). However, whereas journalists comment on a situation immediately, monitors often document trends and patterns before producing a report, rather than focusing on single events.

- **Intervening:** Some forms of monitoring involve people attending events in order to intervene if tensions rise or if there is evidence of violence. This might include monitors physically positioning themselves between rival groups or between demonstrators and the police as human barriers. This type of monitoring is usually *not* carried out by international organizations or institutions like ODIHR.

### Types of Monitors

Individuals conducting a variety of monitoring activities might express an interest in human rights or might describe themselves as human rights monitors, but this can be misleading. In recent years, the range of so-called human rights monitors has included the following categories:

By membership:

- **Members of local civil society organizations:** representatives of local human rights groups who monitor compliance of state authorities with international human rights standards.
- **International human rights observers:** representatives of international NGOs who co-operate with local human rights groups.
- **Representatives of international organizations:** International organizations, including the United Nations, the OSCE, the Council of Europe and the European Union, among others, have been particularly prominent in monitoring such activities as elections and peace agreements.

By function:

- **Human rights monitors:** groups and individuals who are primarily concerned with observing freedom of assembly
- **Peace monitors:** groups and individuals who are primarily interested in ensuring that post-conflict events, are peaceful, and who only focus on human rights in a very general sense.
- **Solidarity monitors:** observers who focus on the relationships between the police and one group within a particular community.

## Relationships

Monitors might be only one group among many that attend a public assembly. The main groups that are always present are obviously the participants and the police. But public events might also attract a range of opponents or counter-demonstrators, spectators, the media, politicians and others, depending on the subject and location of the event. Depending on the rationale of the monitoring groups, they will also have better or worse relationships with some of the other groups and organizations present. Some participants at an assembly will welcome the monitors; others might see them as contributing to a process of confrontation and conflict. Thus, monitors might be, or be perceived as:

- **Independent and impartial or partisan:** Most monitors emphasize their independence and impartiality from the various other groups present at a public assembly, but others make no such claims and are keen to emphasize their support for one particular party or group. Since monitors often focus on the activities of the police or of groups, who are at the extreme ends of the political spectrum, they might be treated with suspicion or hostility by such groups.
- **Active or passive actors:** Most monitors attend an assembly to observe the activities, but some people attending an assembly might expect monitors to play a more active role. Monitors might be asked to do something or to express an opinion about what is taking place.
- **Local or international:** In many situations, international observers are utilized to scrutinize respect for human rights at the local level, to observe election standards, or to monitor adherence to peace agreements. International monitors might be seen to have more status, authority, or independence than local monitors, but they can also have less local knowledge and a limited understanding of local nuances and expectations.

In the end, it is important for monitors to clearly define their aims and how they plan to work.

## Summary

The use of the term “monitoring” has included a diverse body of practice, but in relation to the monitoring of public assemblies by civil society organizations, ODIHR emphasizes the following core elements:



1. Monitoring respect for, and protection of, freedom of assembly involves the intentional and organized presence of monitors at public assemblies to observe, document and report both the flow of events and the interaction of participants, the police and other state authorities.
2. Monitors should remain and strive to be perceived as independent, neutral and impartial at all times.
3. Monitors might also need to observe a range of activities that take place both before an assembly (imposition of restrictions or an appeals process) and after an assembly (detention and trial procedures), although this will involve drawing on a specific body of practice related to trial monitoring.<sup>12</sup>
4. Monitors do not directly involve themselves as participants in assemblies, but they aim to have an impact by their presence or by publicizing what they have observed through reports and other activities.
5. Monitoring is aimed at having a positive impact on practice at public assemblies and on the understanding and respect demonstrated for freedom of peaceful assembly by state authorities.

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<sup>12</sup> See for example *Trial-Monitoring: A Reference Manual for Practitioners* (Warsaw: ODIHR, 2008), <[www.osce.org/odihhr/31636](http://www.osce.org/odihhr/31636)>.

## 7. Principles and Standards in Monitoring

The purpose of monitoring is to improve the protection of, and respect for, human rights. Monitors have to work to high standards to ensure that their observations and reports are respected and can bear scrutiny. The following principles have been drawn from the experiences of monitors working in a diverse range of contexts.

Monitoring is a tool that is used to promote respect for and protection of human rights. Monitors should respect the human rights of all parties. Monitors should adhere to the principle of "do no harm".

1. Monitors must show respect for the law. They should be familiar with the legal framework. They should work within the law at all times and should obey all lawful instructions from the police and emergency services. Monitors should also bear in mind that, if they witness any illegal activities (by the police, demonstrators or others), they might be invited to testify or provide evidence at a later date.
2. Monitors must maintain their independence throughout their activities. Monitors should ensure that their independence is not compromised by their location, dress or behaviour. They should not participate in any form of demonstration. Monitors may introduce themselves to participants but should not voice opinions about events or activities.
3. Monitors should remain neutral. Monitors are individuals, with their own rights and responsibilities; however, when monitoring, it is important to maintain a neutral position. Monitors should not advise anyone involved in an assembly or voice opinions about the actions of any party.

The work of monitors should be visible. They should have some form of personal identification with them at all times. In some circumstances, for safety reasons, monitors would not display their identification unless required to. While this can be decided upon depending on the context, in general, monitoring is a transparent and open practice, and it is hoped that the visible presence of monitors will have a positive impact on respect for human rights and deter acts of aggression and violence.

4. Monitors generally work as part of a team. They should have an agreed plan of action and agree on means and lines of communication with other team members. They should agree on a public location to meet at after the event.
5. Monitors should be mindful of their own safety. Ideally, monitors should work in pairs (although this is not always necessary or practical). At times, it might be necessary for monitors to withdraw from a location or public space entirely if they have concerns for their personal safety.
6. Despite the provisos specified above, monitors should also remember their social responsibilities as individuals, and there might be times when an individual considers it necessary to intervene in a particular situation, e.g., to help someone who is being physically assaulted. The monitoring team should discuss such eventualities as part of its general preparations.
7. Monitors should never act in a way that will discredit the monitoring team. Monitors should never consume alcohol or illegal drugs or substances before or during events.
8. Monitors should not offer any formal opinions to the media or other agencies during an assembly. Any comments should be limited to identification of their role as independent human rights monitors.
9. The monitoring team should be debriefed orally as soon as possible at the end of an event. Written reports should, ideally, be prepared within 24 hours of the end of an event from notes made at the time.
10. Monitors' reports should be clear, concise, accurate and impartial. Monitors should ensure that their reports are based on what they have seen and heard. They must resist any outside efforts to influence their reports. They should not report hearsay.

### **Code of Conduct**

Most, if not all, monitoring projects work in accordance with a code of conduct that outlines the core principles of their work. A code can be a useful reminder for monitors

of what is expected of them if they participate in a monitoring team or project. The code should also be carried by monitors and shown to people at an assembly to identify and clarify the aims and modes of practice of the monitoring team. The following code of conduct is based on the code used by OSCE election observers and has been adapted to reflect the work of assembly monitors.

### **Code of Conduct for Freedom of Assembly Monitors**

1. The overall aim of monitoring is to strengthen human rights.
2. Monitors will maintain strict impartiality in the conduct of their duties.
3. Monitors will undertake their duties in an unobtrusive manner and will not interfere in the assembly process.
4. Monitors will remain on duty throughout the duration of the assembly.
5. Monitors will base all conclusions on their first-hand observations or on clear and convincing facts or evidence.
6. Monitors will not make any comments to the media on the assembly or events associated with the assembly. Any comment to the media will be limited to general information about the monitoring project and the role of monitors.
7. Monitors will not take any unnecessary or undue risks. Each monitor's personal safety overrides all other considerations.
8. Monitors will carry identification and will identify themselves to any authority on request.
9. Monitors will comply with all national laws and regulations.
10. Monitors will exhibit the highest levels of personal discretion and professional behaviour at all times.
11. Monitors will attend all required project briefings and debriefings and adhere to the deployment plan and all other instructions provided by the monitoring team.

## 8. Establishing a Monitoring Project

The following section outlines a number of general steps and actions that are involved in setting up a monitoring project.

**Co-ordination:** Any monitoring project will require some level of co-ordination and planning, which can best be done through a lead organization with a designated person as the key point of contact. The co-ordinating body will be responsible for planning monitoring activities, providing identification, deciding how many monitors will be required, contacting individual monitors, providing or distributing any necessary equipment, collecting monitoring reports, and producing a final report, among other things.

**Legal knowledge:** The monitoring co-ordinators should ensure that they are familiar with the local legal framework, such as the constitutional provisions, laws and pertinent court cases relating to freedom of assembly and other relevant issues, including police powers to constrain protesters and other people in public spaces. They should also gather background information on previous experiences of how the law has been used or applied in order to be able to brief members of the monitoring team.

**Monitoring pool:** A co-ordinating body should be able to draw upon a pool of volunteer members. There is no upper limit to the number of monitors in the pool; the more monitors that can be drawn upon, the more assemblies that can be monitored. Individual monitors will have, or will develop, different levels of interest and experience, and it is likely that the monitoring team will include both a core group of interested and experienced monitors and a wider network of occasional monitors.

In most countries, there are likely to be more assemblies in the capital city and, thus, close to the institutions of power than in other towns and cities. It might, therefore, make sense to have a larger pool of monitors in the capital than in other areas, or to agree to concentrate monitoring in specific locations.

**Training:** All monitors should be required to take part in an introductory training programme in advance of being deployed, to ensure that they understand the objectives and principles of the project. This should be the case even for people with previous monitoring experience, as different types of monitoring projects might have different aims and approaches. This handbook can serve as the basis for a monitor-training programme.

The training programme might also provide an opportunity to inform other relevant parties about the work of the monitoring project. In one country, the monitor-training programme included police officers, representatives of the civil administration and of the ombudsman's office, as well as civil society actors.

Training programmes should include information about the local legal system, the context in which assemblies take place, and a review of policing practices, as well as more practical information related to specific practical and ethical issues.

**Identification:** Everyone who participates in a monitoring team should have some form of personal identification or accreditation that identifies them as a trained and accredited monitor. Ideally, the ID should include a photograph. All monitors should be required to carry their identification whenever they are monitoring an assembly, although the local context will inform decisions about how visible the monitor's identification should be.

**Monitoring teams:** In most situations, monitors should be deployed to work with at least one other person. By working alone, monitors might face an increased risk to their personal safety, and this will also limit their capacity to observe activities at an assembly. In some situations, however, where the assembly is spontaneous or held on short notice, or if it is expected to be a small event or of short duration, it might be sufficient for an individual to monitor alone.

**Monitoring roles:** There might be a need for some differentiation of roles in carrying out monitoring activities, although this need not be complicated. For a small monitoring team, it might only be necessary to have a designated co-ordinator; for larger teams, there might also be a benefit in having a group of designated team leaders who are responsible for groups of monitors in different locations. It will be useful to have a small

core group of people who can share or rotate co-ordinator and team leader roles in order to build and expand their experience within the wider monitoring team.

It might also be useful in some contexts to have one person who remains on duty at the monitors' office or base, and who can serve as a point of contact for those monitors who are at the assembly and can act speedily in case of an emergency situation.

**Mentoring:** Monitoring teams will be made up of people with different levels of experience. Wherever possible, inexperienced monitors should be deployed with more experienced monitors as partners.

**Transparency:** Most monitoring projects are open and transparent about their objectives and work methods. This can include placing information about their work on a website and engaging with the relevant authorities. In one instance, a monitoring project included details on its website about its methodology, the names of all accredited monitors, its code of conduct, and examples of their identification on their website. In another case, when the monitoring project was initially set up, the co-ordinator sent letters to the police, the municipality and the main political parties informing them of their intention to monitor future assemblies.

## 9. Preparing to Monitor an Assembly

There are a variety of tasks that should be carried out in advance of any assembly, involving the gathering of information and planning of activities that are necessary to enable the monitoring. These activities are usually carried out by the group or organization co-ordinating and organizing the actual monitoring.

**Assembly notification details:** The co-ordinating body should obtain details of any proposed assembly in advance. This might involve contacting the relevant authorities directly, or it might be possible to gather information electronically. In some countries, the municipal authorities put a notice about all assemblies on display in a public building. In others, information on public processions and decisions on any restrictions that have been imposed are available online.

The co-ordinating body will also need to obtain information on any restrictions that have been imposed, as well as on any planned or potential protests or objections that have been made by the authorities. In some countries, meetings to consider notifications to hold a public assembly are open to the public, and monitors are free to attend and observe the discussions. Attending such meetings can be a useful opportunity to meet key people involved in the administration of assemblies, the organizers and police officers, and can serve to make such individuals aware of the monitoring project, as well as also helping to establish the credentials of the monitors.

**Assemblies without notification and spontaneous assemblies:** It is not always necessary to provide prior notification for all assemblies. In England, for example, organizers of static assemblies do not need to provide advance notification, while some countries make exceptions for small assemblies. Many countries also provide for spontaneous assemblies to be held without providing prior notification, and in countries where



prohibitions are frequently imposed on public assemblies, organizers might choose not to notify the authorities in advance of their intentions. In such situations, establishing and maintaining contacts with a diverse network of civil society organizations might be the best way of gathering advance information of plans to assemble.

**Networking:** Monitors should also aim to maintain contact with regular organizers of public assemblies, in order to gather any information on forms of pressure or harassment might be exerted by the authorities – there might even be cases of detention – in advance of an assembly and that might serve as an informal means of restricting an assembly. In one case, a monitoring project recorded instances whereby people distributing flyers advertising a forthcoming assembly were physically assaulted.

**New media and social networking:** In recent years, there has been an increasing use of new forms of media and social networking to co-ordinate assemblies and to mobilize people around a cause. The emergence of such social-networking resources as Facebook and Twitter has had a significant impact on social activism and the ability of people to organize or co-ordinate assemblies on short notice. Increasingly, monitoring teams need to be able tap into such networks in order to keep abreast of forthcoming assemblies and, when feasible and relevant, monitor assemblies that are unfolding. In some cases, it might be desirable for monitors to be equipped with mobile phones that would enable them to check social networking and other Internet sources while monitoring.

**Co-ordinating the monitoring team:** Once the monitoring project is aware of a forthcoming assembly and its planned location, an assessment can be made as to how many monitors should be deployed, and monitors will need to be contacted to check their availability. One monitoring project established a website accessible to all monitors and other interested parties that provides information about forthcoming assemblies and other information about the project. Creating a (closed) Facebook group might serve a similar purpose, and might provide the option of limiting access to information on monitoring activities to monitors only.

**Key contacts:** It might be useful for a member of the monitoring team to make contact with the local police, local authorities and the organizers of the assembly in advance of the event to inform them that the group intends to monitor the assembly and to clarify any details. Over time, monitors might establish a positive working relationship with the authorities, and this might enable them to gain information as early as possible about notifications of assemblies and the outcomes of any meetings to resolve problems, which might assist in planning the monitoring.

**Familiarization with the location and route:** Ahead of the event, a member of the monitoring team should visit the proposed site and/or walk the route of the assembly to be monitored. This will be useful in allowing the team to familiarize themselves with the direction of the route, key locations, main physical structures and buildings, and possible problem areas. This information will be used to determine how many monitors will be needed and at which locations.

**Risk assessment:** The information gathered in the process of familiarization with the location and route will also be necessary for the leader or other member(s) of the observation team to prepare a brief risk assessment for the monitoring activity. For small events, the risk assessment might be in the form of an oral review of potential problems and safety issues; for larger events, this might need to be written up and circulated to all team members.

The risk assessment should include such matters as:

- potential trouble spots on the route and/or at the location of the assembly;
- potential problems that might emerge with the police, opponents or others;
- awareness of possible problem areas, such as building sites and road works, that might have material that can be used as weapons, barricades, etc.; and
- a location to meet up at the end of the event.

The risk assessment should also consider the safety issues for the monitoring team. What to do in the event of trouble, including possible exit routes should an assembly become violent, first-aid arrangements and a location to meet if people get separated should all be covered.

## 10. Monitoring an Assembly

There are a number of practical steps that need to be taken in monitoring an assembly. The scale of the preparation and organization will very much depend on the nature of the assembly being monitored, the level of controversy or risk associated with the assembly, the attitudes of the authorities to the assembly, the size of the monitoring team being deployed, and the experience of the monitors who will be working.

The following section applies to monitoring of planned assemblies, where information has been gathered in advance. It might also be necessary at times to respond to spontaneous assemblies or assemblies without notification, and provision should be made for experienced monitors to be deployed at short notice in such situations.

**Pre-monitoring briefing:** Members of the monitoring team should arrange to meet in advance of the event. Ideally, this will take place in an office but, in some circumstances, the meeting might have to take place near the location of the assembly. The meeting will be an opportunity for the co-ordinator to provide an overview of plans for the monitoring, to review the risk assessment, to ensure that all monitors have the necessary equipment, and to establish teams and responsibilities.

**Identification:** In addition to carrying their monitoring identification, some monitoring teams choose to wear more visible means of identification, such as jackets, team shirts, hats or armbands, which increase their visibility and allow them to be easily distinguished from the larger crowd of people. In one project, monitors were expected to wear fluorescent shirts that identified them clearly as monitors. They were also given a range of other equipment, including walkie-talkies and safety hats.

**Visibility:** In principle, monitoring should be carried out in a visible and transparent manner. In some situations, however, it might be necessary to undertake monitoring in a more discreet manner. In such cases, monitors might decide not to make themselves visibly identifiable or to introduce themselves to the authorities or the organizers. Even in such circumstances, they should carry appropriate identification stating that they are monitors.

**Timing:** Monitors should aim to arrive at the location in advance of the assembly participants. This will provide an opportunity for monitors to familiarize themselves with the environment and to get in position to observe all elements of the assembly as people gather. The monitoring team should agree in advance about how long they intend to remain at the location.

**Introductions:** It might be appropriate for one of the monitoring teams to introduce themselves to the organizers of the event and the police commander. This is a matter of courtesy and also serves to inform key individuals of the proposed aims and objectives of the monitoring team.

**Number of monitors:** There is no ideal number of monitors for an event. For larger events, any number of monitors can be deployed. In general, monitors should not work alone; instead, they should always work in pairs or in small teams. All monitors deployed should be trained and fully briefed.

**Positioning of monitors:** The co-ordinator should position the monitors according to his or her understanding of the location of the event and the likely position of the key participants. This will also be contingent on the number of monitors that are available. Monitors should be positioned in a manner that allows them to have a clear view of as much of the assembly as possible. Depending on the scale or location of the assembly, however, monitors might need to move around to ensure they can follow the flow of events. In considering where they choose to stand, monitors should also consider safety issues, such as where they position themselves in relation to the police and in relation to potential exit routes from the site.

**Teamwork:** Monitors all work as part of a team, and they all are responsible to and for other members of the team. They should keep an eye on fellow monitors, and they should not leave the assembly without good reason or without informing other members of the team. All monitors should adhere to the terms of the code of conduct at all times.

**Recording:** Wherever possible, monitors should carry their own notebooks, pens, a watch and, if possible, an audio recording device. Monitors should note all key events

and activities, including the time and the key actors involved. Monitoring teams might also use still or video cameras to record important incidents and activities, while mobile phones can be very useful, particularly if they have camera functions and voice recording devices. If monitors are for any reason unable to make written notes during the assembly, they can voice record their observations. They should then write up their notes as soon as possible after the assembly has ended.

**Communication:** The monitoring team should agree on a means of maintaining contact with each other throughout the duration of the event. Some monitoring teams use walkie-talkie radio systems, some use mobile phones, while others rely on sight to keep in touch or have a designated monitor responsible for maintaining contact with different teams throughout the monitoring activity. The monitoring team should consider different options and choose the most appropriate method for the context. Monitoring teams should also be aware that the authorities might try to close down mobile-phone networks in an attempt to control crowds in certain situations. In other cases, in the presence of very large crowds, the mobile-phone network might become overloaded, causing difficulties in mobile-phone communication. Monitors should, therefore, give consideration to low-tech means of communication rather than assume they can always rely on new technologies. This could include agreeing on meeting points or other procedures to be followed should communication by mobile phone be impossible.

**Safety issues:** Monitors should always be mindful of their personal safety and the safety of other members of the monitoring team. This will include maintaining awareness of any changes in the mood at the assembly, the deployment of police with riot equipment, or police requests for participants to disperse. Monitors should always be aware of the route they might take if they need to leave an assembly in a hurry, the location of other monitors, and the location of the post-event meeting point. In particular, experienced monitors should be aware that monitors without much previous experience might have a different level of awareness of threats than those with more experience. A rule of thumb is that if one member does not feel safe, then the team should withdraw from the assembly, in order to assess the situation and decide whether to continue or to end the monitoring.

**Monitoring as an individual:** This handbook assumes that most monitoring will be carried out as part of a team project. However, it is entirely possible for an individual to monitor an assembly, and this might be necessary in response to a spontaneous assembly or an unexpected situation. But, in such situations, individuals should always be mindful of their safety, should inform other persons of their intentions, and should check in with them at the end of the event.

### Key Items for Monitors to Carry with Them

Monitors should always be prepared for a variety of situations, such as changes in the weather, increases in the amount of time to be spent monitoring, or a lack of access to resources and facilities.

Monitors may also become separated from other members of the monitoring team or get caught up in a potentially dangerous situation.

Monitors should carry the following items at all times:

- A form of identification and monitoring accreditation. The monitoring ID should, ideally, include a photograph of the monitor.
- Contact phone numbers, including for other members of the monitoring team and/or a lawyer. These should be written down and also memorized.
- A mobile phone, if possible with Internet connection, or coins/cards for public phones, as a back-up to mobile phones.
- Comfortable clothes and footwear suitable for different weather conditions, as monitors might be on the street longer than expected.
- A First aid kit; small bag or backpack; hat and/or suncream.
- A monitoring information sheet, notepad, pens, audio recorder and watch.
- A camera or video camera, and spare batteries.
- Water in a plastic bottle.
- Personal medication and plasters.

**Do not take** anything that might be regarded as a weapon. This could include such items as a penknife or a glass bottle, or items that can be seen as aggressive or dangerous, such as steel-toe boots, a helmet or a mask.

**Do Not Wear:** Jewellery, particularly dangling earrings or necklaces. These should be removed while monitoring.

## 11. Practical Guide to Monitoring

The following section outlines some of the key people and activities that are associated with public assemblies that might need to be considered, noted and recorded by monitors when they are attending assemblies, recording information and preparing reports. The purpose of recording incidents and activities is to enable monitors to reconstruct the scene at an assembly when writing their report after the event. Wherever possible, monitors should note the time of any incidents, so that records can be compared and synchronized with notes made by other monitors. Any final report will usually be a composite, based on the views of monitors who might have been positioned in different locations at the assembly.

The following is not necessarily an exhaustive list, as other factors might need to be taken into consideration according to the local context and potential changes to the context. These might have implications for a monitor's ability to work according to a pre-agreed plan. In reality, monitors need to observe all activities at, and in the vicinity of, an assembly, as well as changes that take place over the course of an assembly. In practice, monitoring can be monotonous and boring for periods of time, and monitors need to be attentive to changes in the mood of the assembly, which could be a prelude to different forms of action or activities. Monitors will need to be aware of changes that occur in the number of people who are present and the nature of their activities over the course of the assembly.

**Legal status:** Monitors should be aware of the legal status of an assembly before they arrive at the assembly point. This will include knowing whether the assembly has complied with any legal notification requirement, or whether it is a spontaneous assembly. Monitors should also try to find out whether any restrictions have been imposed on the

organizers' original intentions. It might be useful for a member of the monitoring team to speak to the organizer and the police upon arrival to clarify the situation.

**Practical status:** Monitors should note whether the assembly can proceed in accordance with the legal notification. Sometimes, police impose restrictions on the day of the assembly, which prevents the assembly from taking place on time or at the intended place.

**Time, weather, light:** Note should be taken of the date, the time for the monitors to arrive, and the time at which the assembly is due to begin. It is also worth noting the nature of the weather and temperature, and the quality of light, as it is obviously easier to observe activities in good daylight than events taking place in poor lighting conditions or as dark is falling.

**Format of the assembly:** Assemblies can involve either static gatherings of people in a single public space or the movement of crowds in a procession, or a combination of these. Most assemblies involve people on foot, but they might also involve the use of vehicles, including bicycles. Some assemblies might also take the form of sit-down protests or involve people moving a short distance to deliberately block roads or impede the movement of others.

**Nature of the event:** Information should be gathered about the type of event being monitored, e.g., if it is a political rally, a trade union event, a picket or an environmental protest. It is also important to whether the assembly is an opposition event or is supported or promoted by the government or other authority, and whether it is considered to be a contentious assembly or is assumed to be non-contentious.

**Location:** A note should be made of the location of the assembly (central or commercial area, residential district, park, etc.) and a description of the general environment at the time of arrival. Photographs or videos can be particularly useful in providing a broad perspective of the assembly point. Attention should also be paid to any prominent buildings, potential danger areas and significant structures (platforms, loudspeakers, stalls, stands, etc.) associated with the assembly. Note should be made of any distinctive physical elements that would not normally be present at the site of the assembly.

If the assembly moves to a different location, monitors should also note the route that is taken. This might include noting significant details on the route and on the presence of groups or individuals along it.



Finally, attention should be paid to the relationship between the assembly and vehicle traffic, e.g., whether roads are closed or vehicles are allowed to continue throughout the assembly or part of the assembly.

**Mood/atmosphere:** The nature of the event might also affect the atmosphere at the assembly or the mood of the participants. Some events feel calm and friendly, while the mood at others might be tense or hostile. Some crowds are welcoming, while others might be suspicious of the presence of strangers.

**Organizer:** Monitors should note the name of the individual or group that is responsible for the organization of the assembly. They should also try to affirm that the organizer is present and should observe their interactions with other parties present, such as the police. Where possible, monitors should also follow relevant social networking feeds that might provide real-time information on activities that might be out of sight or which might have an impact on the assembly and its route.

Attention should also be paid to the presence (or absence) of stewards or other individuals who might be helping with the organization of the assembly or crowd management. Monitors should try to count the number of stewards and should note if they are wearing visible forms of identification. If so, they should describe this identification.

**Participants:** Monitors should try to note the number of participants at the assembly, although this can be difficult as the numbers grow. However, as people's monitoring experience grows, so too will their ability to estimate crowd numbers. Monitors should also attempt to assess any changes in crowd numbers through the duration of the assembly.

It might also be useful to try to note the age and gender balance of the crowd. In particular, an attempt should be made to note the presence of children and young people, as in some countries there have been attempts to impose legal limitations on children's right to freedom of assembly.

**Police:** The police almost always have a prominent presence at assemblies, and it will be important for monitors to pay close attention to police numbers and actions throughout the duration of the event. In many countries, there are a variety of police organizations or law-enforcement bodies, and it might be difficult to determine which police units or organizations are present if monitors have not yet developed some specific local knowledge. Therefore, it is important to note differences in police uniforms, insignias and badges, as a means of identifying the specific units that are present at any event.

It is important to note whether police are wearing protective clothing or riot gear, or are in ordinary uniforms. Similarly, some attempt should be made to identify the presence

of plainclothes police officers. It is also worth noting whether individual police officers have some visible form of personal identification.

Monitors should observe how and where police officers are deployed in relation to the assembly, e.g., the police might be waiting in small groups or might form a line across a road, or they might be corralling the crowd in some way. Individual officers might also be deployed to control traffic or to protect particular buildings in the vicinity.

Monitors should also observe the nature and quality of any interaction between the police and the assembly organizers and participants. The nature and quality of such interaction might provide a good indication as to whether the assembly will proceed in an amicable or in a confrontational manner.

All of the police officers who are deployed might not be visible, as police might be held in reserve out of sight of the main assembly but close enough so that they can be deployed at short notice. It is, therefore, useful for monitors to walk the street in the vicinity of the assembly to note how many reserve police officers there are and where they are stationed.

Monitors should also note that police officers also have rights, and consideration needs to be given not only to the actions of the police but also to the actions (verbal abuse, acts of violence, provocations) of the people present at the assembly that might impact on the behaviour of police officers.

**Police equipment:** Police forces have access to a wide range of both personal and specialized equipment that can be used when they are trying to maintain public order. Personal equipment includes items, such as batons, shields, handguns, plastic-bullet guns and pepper spray. Other equipment, such as tear gas cannisters, might not be evident until it is about to be used. Specialized equipment might include video cameras, water cannons, vehicles, and helicopters, and dogs and horses might also be used.

**Barriers:** The police might also use a variety of barriers to limit movement or access to the assembly location and to control crowds. Note should be taken of the type of barriers and their location, including roads that are closed off.

**Counter-demonstrators:** Some assemblies attract counter-demonstrations. If this happens, monitors should also include these in their monitoring activities. This will involve assessing the number of counter-demonstrators, their legal status (if any), the presence of any organizers and stewards, and their physical location in relation to the main assembly, as well as their location in relation to the police. Monitors might also attempt to observe any interactions between counter-demonstrators and the police.

**Spectators:** The presence and location of casual spectators should also be noted, as well as their interaction with assembly participants and with the police. Spectators might also change their attitudes over the duration of an assembly and display either support or opposition to the aims and activities of those participating.

**Other participants:** It is always important to make note of the presence of specialized actors, such as members of emergency or security services in the vicinity of the assembly, and also the presence of prominent individuals, such as politicians, government officials or religious leaders. Note should also be made of the presence of different media outlets (television crews, radio and print journalists) and whether they are from local, national or international organizations. Finally, the presence of any other groups of monitors should be noted, as some assemblies might attract local and/or international organizations to monitor the situation.

**Displays and activities:** Monitors should aim to document all forms of displays and activities associated with the assembly. These might include:

- **Visual displays:** These might include different types of flags or banners, posters or placards. Monitors should record any statements or slogans on such displays.
- **Clothing or uniforms:** Attention should be paid to any distinctive items of clothing being worn, particularly different uniforms, and also to the presence of people wearing masks or using other means to conceal their identity.
- **Sound:** Note should be taken of any music being played (and whether it is amplified), the presence of people with instruments among the crowd, of any songs or chants being sung, or of abuse being shouted.
- **Speeches:** Monitors should try to pay some attention to speeches to the crowd that might serve to influence people's subsequent behaviour and the mood of the assembly. If the messages conveyed during the assembly could amount to hate speech or incitement to violence, this should be recorded.
- **Physical activities:** It can also be useful to note different types of physical activity, such as people dancing or running, and any changes to patterns of behaviour, as well as whether there were any specific triggers or causes that led to those changes.

**Reacting to unexpected situations:** Although monitors are likely to attend an assembly with a clear plan of their intended activities, they might also need to be able to respond or react to unexpected or changing situations. However, the capacity to respond might also be dependent on the number of monitors that can be drawn upon at any one time, and monitors should not lose sight of their primary task, which is to observe behaviour at the assembly.

In one example, monitors heard a rumour that people travelling to a major public assembly were being stopped and turned back by the police outside of the city where the assembly was taking place. They despatched monitors to a number of key routes to observe the situation in an attempt to verify the rumours.

**Notable incidents:** Throughout the course of the assembly, monitors should observe any incidents that occur, including forms of verbal abuse from the crowd or from opponents, attempts to disrupt the assembly, and acts of violence or the use of force. In the case of such an incident, the monitor should try to identify the individual or group who perpetrated the act, the impact of the action, and any response to the initial action.

**Use of force:** It is particularly important to document any use of force or acts of violence by any party at the assembly, to do so in as much detail as possible, and to assess whether any use of force was necessary and/or proportionate. However, it should be noted that a monitor's natural reaction to any act of violence might be to move away from the scene as soon as possible. Monitors should be mindful of their personal safety at all times.

**Arrests:** Monitors should try to document the arrest or detention of any assembly participants or of any spectators or journalists if such actions occur. Gathering information about the grounds for any arrests or detentions might be difficult at the assembly itself, and it might be necessary to follow up with the authorities or with civil society organizations after the assembly is over to identify any such actions that are taken. It will, therefore, be useful to identify in advance the nearest police stations or places of detention where detainees might be taken.

Some monitoring projects choose to monitor trials that are associated with activities at, or related to, assemblies. However, the monitoring of court cases is also a specific activity in its own right and may reasonably be considered as distinct and separate from the monitoring of peaceful assemblies. Further information on trial monitoring can be found in the ODIHR publication *Trial Monitoring: A Reference Manual for Practitioners* (see reference section).

**Monitors:** It is useful to note which members of the monitoring team were involved in observing the assembly and the different roles they might have played (co-ordinator, team leader, etc.), the equipment they had with them, and whether it was used.

**The end of an assembly:** It is important that monitors remain in position until the assembly they are monitoring ends and all the participants have dispersed. Monitors should note whether the assembly disperses in a peaceful manner and at the agreed time, whether the organizers did anything to encourage people to disperse, or whether the authorities enforced the dispersal of participants. In particular, attention should be paid to any orders given by the police or other authorities, such as for the participants to disperse, and whether force was used in the process of dispersing people.

## 12. At the End of Monitoring

It is also important to make appropriate preparations for the end of the monitoring of an assembly. This is to ensure that all monitors are safe and accounted for and to give each person an opportunity to highlight any issues or concerns that might have arisen during their work.

**Departure:** Monitors should not leave the location of the event or the place where they have been deployed to monitor without informing and having the agreement of the team leader. If they have to leave early or cannot attend the post-assembly meeting, they should be sure to inform the monitoring co-ordinator.

**Attending the post-assembly meeting:** The monitoring team should agree on a time and place to meet at the end of the assembly. All members of the team should be clear about the location and the proposed time of the meeting. It is a good idea to agree on a cafe or similar location to meet, so that people are not waiting for others outside in potentially inclement weather. The location should also be reasonably close to the site of the assembly.

**Debriefing:** Monitors should carry out a short oral debriefing of events. All monitors should be encouraged to report on what they saw and heard at the assembly and have an opportunity to hear what other monitors experienced. This is also an opportunity to raise any queries and concerns, and to agree on any necessary follow-up to events that occurred at the assembly. The debriefing session might take place informally at the meeting in most situations but, at times, it might be useful to meet in another location or on the following day for a more formal debriefing.

**Monitoring social media:** It is useful to continue to monitor social networks and other forms of media in the aftermath of an assembly, to gauge people's responses to the event and also to keep track of any follow-up activities by state bodies or other organizations.

**Reporting:** All monitors should be expected to provide a written report or notes of their experiences of the assembly within 24 hours of the event (also see Section 13, below, on reporting). These should be composed from notes made at the time and recollections of incidents and activities. Notes should be signed and dated and sent to the co-ordinator, who will take responsibility for producing a consolidated report of the event. Audio-visual materials gathered at the time should be contextualized with accompanying written notes and incorporated into the recording and reporting process.

**Debriefing with other participants:** It can also be useful for a member of the monitoring team to meet with, or otherwise speak to, the relevant authorities, the police and the event organizer in the days after an assembly, to hear their assessment of how the event went and to identify any problems that the monitoring team was not aware of.

## 13. Compiling Monitoring Reports

There are three main stages in producing reports on monitored assemblies. The first is production by individual monitors of reports of what they observed at the assembly. The second, if there is more than one monitor present, is the compilation of their individual reports into a general report on each assembly that is monitored. The third is the production of a general report on the overall level of respect for, and protection of, freedom of assembly in a jurisdiction based on the compilation of the findings of monitoring over an agreed-upon period of time. Most ODIHR-supported projects monitor for between nine months and a year before they produce an overview report. However, they might also choose to issue reports on individual assemblies, particularly if there has been violence or an evident breach of human rights.

Monitors rely on a mixture of notebooks and paper, audio recording devices and both still and video cameras to record the key participants, events and activities while at public assemblies. However, the information that different monitors gather individually will need to be organized and analysed so that it can be drawn together into a single, consolidated report.

A series of outline reporting forms are included later in this handbook. These list some of the key categories of information that might be documented for inclusion in the final report. If all monitors use such a format, it will be easier for the person who is drafting the final report to analyse the various pieces of information. The reporting forms are based on those used, adapted and developed by a number of ODIHR-supported monitoring projects.



One monitoring project had their monitoring forms compiled in spiral-bound notebooks. Each monitor used a new notebook for each assembly they monitored and, thus, they had an aide memoire on hand that listed all the key items they might need to document, while the co-ordinating team had a systematic set of records of the observations at each assembly.

Individual monitoring reports should be completed by each monitor as soon as the monitoring of an assembly has finished. The material that is included in the report should be based on what each individual monitor has personally heard or seen and, thus, can be verified as accurate. Any documentation of second-hand information or hearsay should be clearly identified as such in the report.

Monitoring reports will reflect the personal experiences of each individual monitor, and it should not be assumed that each report will be the same as all the others. Rather, it is essential that each report be an accurate representation of the events and activities witnessed by the monitor.

Individual reports should be submitted to the co-ordinator or a member of the co-ordinating group as soon as possible, and the co-ordinator should also review each report as soon as possible to ensure that the contents of the reports are clear and comprehensible. If reports are not compiled quickly enough, or if they are not reviewed promptly, then inaccuracies might creep in, and the validity of the eyewitness report might be open to question.

The monitoring team might also need to give consideration to the security of monitoring reports, and it might be advisable to ensure that back-up copies of reports and other relevant information are made and kept in a different location from the main body of project materials.

One monitoring project used digital cameras to record as much as possible of the assemblies they attended, and the images were uploaded onto the project website as soon as possible afterwards. This can be considered both an exercise in transparency for the monitoring project and an opportunity for people to make their own assessment of the events.

A monitoring project should also gather other documents and reports on freedom-of-assembly issues, such as: news or media reports; Internet reports and blogs; updates through Facebook, Twitter feeds, YouTube videos and other social media; reports by other local or national NGOs; and official documents that might be useful in providing a broader context in any final report. However, monitors should always be aware that other materials might not have been written with the same degree of objectivity and emphasis on first-hand observation as their own reports.

Each monitoring project will need to consider how it might best make the information it has gathered more widely accessible. While projects might focus their work on producing a final overview report, they might also make some material publicly available via a website or through presentations at conferences or workshops.

In general, the purpose of monitoring projects is to assess the ways in which freedom of assembly is protected and facilitated over a period of time, and to document, highlight and analyse trends and patterns in bureaucratic, institutional and individual behaviour. As such, reports from individual assemblies might be gathered over a period of time before they are systematically analysed and written up in a comprehensive project report. This likely delay in analysis is a further reason for ensuring the prompt documentation of observations and a review of the material findings while the memories and experiences are still fresh in the minds of the monitors.

However, it might also be the case that the monitors might wish to act on their observations promptly in some situations. Two particular situations have been identified as justifying a rapid response by a monitoring team.

1. If there has been a particularly problematic assembly that has resulted in serious breaches of human rights or in acts of violence, it may be appropriate for a monitoring team to publish a report of their observations soon after the event and once they have been able to gather and corroborate sufficient information. In such a situation, it would be important to draw upon the observations of all monitors in order to present as full a picture as possible of the assembly and the context in which the breaches of human rights or acts of violence occurred.
2. In cases where individuals have been detained or arrested at an assembly, the monitoring team might wish to use their reports as a basis for further enquiry into human rights violations that might be experienced by persons in detention and/or on administrative or criminal proceedings instituted against them. However, it should be borne in mind that detention and trial monitoring are specific activities in their own right, involving methodologies different from those used for monitoring

assemblies. In this regard, the ODIHR publication *Trial Monitoring: a Reference Manual for Practitioners* (see reference section) is a useful guide.

If the monitoring project does decide to issue a special report, it should be done as a formal part of the monitoring project and should be presented in as clear and objective a manner as possible.

Any final project reports or annual monitoring reports (depending on how long the monitoring project is intended to run) should provide a broad overview of the context in which the monitoring took place and should review the administration of assemblies, as well as the manner in which assemblies are facilitated and policed and any human rights abuses that are noted, and include any examples of good practice. Reports should include a series of evidence-based recommendations for the relevant authorities and interested parties. The overview report can serve as a baseline of the degree to which freedom of peaceful assembly is respected and protected, and the recommendations can serve as the basis for subsequent engagement with the authorities, local civil society and the wider international community.

## 14. Using Monitoring Reports

A detailed discussion of the various advocacy strategies that exist and their link to human rights monitoring activities is beyond the scope of this handbook. In the context of monitoring assemblies, however, it is important to underscore the importance of a clear strategy for each project that determines how the monitoring findings and resulting recommendations will be used.

ODIHR sees the promotion of dialogue between the authorities and civil society on ways to strengthen the protection and promotion of freedom of assembly at the national and local level as one of the main aims of monitoring freedom of assembly, and monitoring reports are a key mechanism for initiating and developing such dialogue. In this regard, the production of a consolidated monitoring report should not be seen as the conclusion of a project but, rather, as a first step in a process aimed at bringing law and practice closer to international standards and good practices on freedom of peaceful assembly.

As noted in the introduction, before a monitoring project is started, a preliminary examination should be conducted of the relevant legislative framework, as well as of the competencies of the various authorities at the national and local levels that have a role in enabling or restricting the enjoyment of freedom of peaceful assembly. This exploration will be complemented by a broader analysis of all relevant stakeholders, of potential allies and opponents among them, and of how to influence these.

While the opportunities to raise issues of human rights abuses differ depending on the country in question, the key bodies relevant to freedom of assembly might include the parliament, the mayor of the relevant municipality, national human rights institutions, the head of the local and national police, the government ministry responsible for

policing, political parties, other local human rights organizations, local branches of international human rights organizations and OSCE missions.

Mapping out the stakeholders and identifying potential allies and opponents is a fundamental step in defining a broader strategy for change. This strategy can take different forms and might involve focusing on one or more specific aspects and/or targets. For example, where inadequate police practice is identified as one of the main obstacles to the enjoyment of freedom of peaceful assembly, improving police practice might become the primary objective of the strategy. Elsewhere, the focus might be on the national legislation regulating assemblies.

Approaches to effecting change might also vary. They might include supporting advocacy at the national level with efforts at the international level (see below). Opportunities might also arise locally, even in the absence of openings at the political centre. A particular municipality, for instance, might be more receptive to change. Efforts could, therefore, concentrate on engaging in a dialogue to improve practice locally, with a view to making a positive example of that municipality. Subsequently, local good practice could be extended to the rest of the country and, potentially, be reflected in policy change at the national level.

All these considerations are important from the very beginning, at the stage when a monitoring project is conceptualized. Indeed, they might affect how monitoring will be conducted, potentially including on which particular aspects it will focus and/or its geographic focus. The need to define a strategy as a first step does not imply that this will not be refined and changed during and/or after the monitoring phase. Strategies for change should be seen as living documents, with information from monitoring activities and feedback from advocacy efforts helping in further developing and refining them.

In considering the local context and, in particular, the nature of the relationships between the authorities and human rights defenders, the following considerations can be relevant in defining and developing a strategy.

- In some cases, the authorities might be receptive to dialogue and developing positive relations with civil society. Monitoring findings and recommendations might serve as a basis for constructive discussions and provide a structure for reforms, retraining and ongoing working relationships. In such situations, they can be used as the basis for developing a programme of activities with an agreed timetable for change.
- In other cases, the authorities might regard the human rights work of civil society organizations as a challenge or a threat. The monitoring findings can then be used

to publicize the extent of respect for human rights and to highlight any abuses, in an attempt to get recognition of the issues.

- The two approaches above are not necessarily, or entirely, mutually exclusive. The authorities in any particular country should not be regarded as monolithic and, after identifying potential allies and opponents, it is critical to engage in different ways with them.

One project used its overview monitoring report to develop a dialogue with the police and to explore constructive ways to increase respect for, and understanding of, human rights, while still acknowledging some of the problems that the police faced themselves. One outcome was a project supported by an OSCE field operation to initiate a training programme with key policing organizations in policing to maintain public order.

- As there might be considerable differences in approaches by different state actors or in different areas or cities, monitors should be cautious about how far they can generalize from a small number of examples, and should ensure that reports discuss specific events or incidents.
- One of the benefits of maintaining a practical monitoring project over a year or more is that monitors might be able to identify patterns of behaviour or abuses of rights that might not be so evident at individual events, where specific circumstances might be cited as a justification of whatever occurred. While monitors might aim to respond critically to individual events, there might be greater value in providing independent evidence of broader trends.
- As discussed in the previous sections, monitoring should be carried out transparently, accurately and impartially. This allows the monitoring team to analyse the actions of the state and its agents, and to compare them with the local legal framework and international human rights standards. Presenting a legal/technical argument on potential failures to comply with international or domestic legal provisions might be the best way to engage in a constructive discussion with policymakers and to de-politicize freedom of assembly.

The monitoring project team might also decide to make the report more widely available, to highlight either ongoing abuses of human rights or improvements in respect of

freedom of assembly, or to highlight ongoing problems with respect to the use of local legislation or the policing of assemblies. This might involve publicizing their work for the general public or specific target audiences, through the local media or international organizations, or by holding public events to disseminate their findings.

### **Taking Action Internationally**

Monitors might choose to disseminate their findings through international bodies, such as the United Nations, the Council of Europe, the OSCE or the European Union. Findings from monitoring activities might be submitted to international human rights bodies, such as the UN Human Rights Committee (e.g., as a shadow report) or processes like the Universal Periodic Review of the UN Human Rights Council.

Reports might also be circulated to international human rights organizations, such as Amnesty International, Freedom House or Human Rights Watch. Advocacy activities might be co-ordinated with international human rights NGOs, ensuring that the international component complements work carried out domestically by the monitoring team and local organization.

Action at the international level should not be an aim in itself, but can also be an element in a broader strategy for change locally. With the possible exception of the litigation of individual cases,<sup>13</sup> international action rarely leads to direct results at the domestic level. However, interventions, opinions or concluding observations (see below) by authoritative international human rights bodies might help strengthen the argument in favour of change domestically and can be effective in focusing the attention of state authorities on particular human rights issues. The following paragraphs summarize some of opportunities for disseminating reports and reporting human rights violations to key international bodies.

**OSCE and ODIHR:** The OSCE has developed a diverse programme of work related to freedom of assembly over recent years, both through ODIHR and the various field operations across South-Eastern and Eastern Europe, and the South Caucasus and Central Asia. Issues might be raised locally with staff at the relevant field operation, who might be able to assist in facilitating dialogue or highlighting concerns, or they might be raised more widely at the annual Human Dimension Implementation Meeting in Warsaw, where the implementation of OSCE human dimension commitments by participating States is reviewed. Human dimension meetings have traditionally included a session focusing on freedom of assembly, at which NGOs are given an opportunity to

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<sup>13</sup> However, even for cases brought before the European Court of Human Rights, the execution of judgments remains a problem in some cases.

speak. In addition, Human Dimension Implementation Meetings provide opportunities to organize side events to raise issues and publicize problems that have been identified in individual countries in more detail. Such interventions can lead to the establishment of dialogue between NGOs and authorities, which can then continue in-country with a view to bringing about the necessary change.

More information on ODIHR's work on freedom of assembly is available at: [www.osce.org/odihr](http://www.osce.org/odihr).

**European Court of Human Rights:** The European Court of Human Rights is an international court with jurisdiction to hear cases of alleged violations of rights protected in the European Convention on Human Rights in Council of Europe member states. Applications can only be submitted after all domestic remedies have been exhausted and within six months after the final domestic decision relating to the case has been handed down. The Court's judgements are binding. Information for applicants is available at: <http://www.echr.coe.int/ECHR/EN/Header/Applicants/Information+for+applicants/Frequently+asked+questions>.

**Human Rights Commissioner of the Council of Europe:** The role of the Human Rights Commissioner includes identifying possible shortcomings in law and practice related to human rights and assisting Council of Europe member states in the implementation of human rights standards. Information may be submitted to the Commissioner on the status of human rights defenders and their work, including reports on threats and violations of their human rights, in the 47 member states of the Council of Europe.

More information on the Human Rights Commissioner is available at: [http://www.coe.int/T/Commissioner/About/welcome\\_en.asp](http://www.coe.int/T/Commissioner/About/welcome_en.asp).

**UN Human Rights Committee:** States parties to the ICCPR are required to submit periodic reports to the Human Rights Committee on the implementation of the rights enshrined in the treaty, including the right to peaceful assembly. NGOs can use this as an opportunity to present a shadow report to the Committee, providing their findings on compliance or non-compliance with human rights standards. Based on all the information available, the Committee publishes its concluding observations, raising concern where a state fails to meet its obligations under the ICCPR and providing recommendations to address them. Over the years, shadow reports have played a prominent role in highlighting human rights violations, and concluding observations can be used domestically to hold states to account and to encourage them to abide fully by their international obligations.



Where states have ratified the First Optional Protocol to the ICCPR, individual cases can be brought before the Human Rights Committee. In a similar manner to cases before the European Court of Human Rights, national remedies must be exhausted before an individual petition is presented alleging a violation of one or more rights protected in the ICCPR.

Further information on the Human Rights Committee is available at:  
<<http://www2.ohchr.org/english/bodies/hrc/>>.

**United Nations Human Rights Council:** Special procedures under the UN Human Rights Council have either thematic mandates covering a specific right/issue or mandates focusing on the human rights situation in a specific country. Their mandates usually have a monitoring and reporting component, and their activities include acting on individual cases, often based on information from NGOs and other reliable sources. Special procedures involve either an individual (called a special rapporteur, special representative of the Secretary-General, or independent expert) or a working group, usually composed of five members. In 2010, the Human Rights Council decided to appoint, for a period of three years, a special rapporteur on the rights to freedom of peaceful assembly and association. In addition, the mandates of existing special procedures cover human rights issues that are closely related to the enjoyment of freedom of assembly (for instance, there is a special rapporteur on the situation of human rights defenders).

In addition to providing information to UN special procedures, civil society actors have the opportunity to be involved in the Universal Periodic Review, a process carried out under the auspices of the Human Rights Council and involving the review of the human rights situation in all UN member countries. NGOs can submit information to be considered during the review and can present statements at the Human Rights Council sessions when the outcomes of the state reviews are considered.

For a general overview of UN bodies and mechanisms and the opportunities for NGOs to engage with them, see *Working with the United Nations Human Rights Programme: A Handbook for Civil Society*, published by the UN Office High Commissioner for Human Rights, available at:  
<<http://www.ohchr.org/EN/AboutUs/CivilSociety/Pages/Handbook.aspx>>.

**Inter-American Commission on Human Rights (IACHR):** The IACHR is one of two bodies in the inter-American system for the promotion and protection of human rights. The Commission has its headquarters in Washington, D.C. The other human rights body is the Inter-American Court of Human Rights, located in San José, Costa Rica.

The IACHR is an autonomous organ of the Organization of American States (OAS) and represents all the member states of the OAS.

Petitions to the IACHR alleging a violation of the rights enshrined in the ACHR may be filed by states, NGOs or individuals. Unlike most court filings, petitions are confidential documents and are not made public. Petitions must meet three requirements: Domestic remedies must have already been tried and failed (exhaustion); petitions must be filed within six months of the last action taken in a domestic system (timeliness); and petitions cannot be considered if their subject matter is pending settlement in another procedure before an international governmental organization (duplication of procedure).

On examining a petition, the Commission can carry out an investigation, request additional information from states, and receive oral or written statements from the parties concerned. It can then produce a report with its conclusions and recommendations and, in certain cases, refer a case to the Inter-American Court of Human Rights, which, on finding a violation, can decide that the measure or situation that constituted a breach be remedied and that compensation be paid. Only states parties and the Commission can submit a case to the Inter-American Court of Human Rights.

The IACHR also has a mandate to promote respect for human rights in the region, including through the preparation of studies and reports. As part of its work, the Commission can carry out on-site visits to countries to engage in more in-depth analysis of the general situation and/or to investigate a specific situation.

Further information on the IACHR is available at:

<<http://www.cidh.oas.org>>.

# Monitor Reporting Forms

Name:

Date:

Location:

Time of monitor's arrival:

Time of monitor's departure:

<b>1. Legal Status of the Assembly</b>	Description and Numbers
Did the organizers comply with the legal notification process?	
If not, why not?	
Was the assembly a spontaneous event?	
If so, what was the reason for the assembly?	
List any conditions or restrictions imposed on the assembly.	
Was any appeal made against any restrictions?	
If so, what was the outcome of the appeal?	
Who heard the appeal?	
List any restrictions that were ignored.	
List any additional restrictions imposed by the police before the assembly began.	
List any additional restrictions imposed by the police while the assembly was under way.	
Any additional comments	

2. The Assembly	Description and Numbers
Type of assembly (meeting, picket, march)	
Location and date of the assembly	
Purpose of the assembly	
Starting time/place	
Destination of the assembly	
Main elements of the route	
Time of finish/dispersal	
Name of organizer/organization	
Was the organizer present?	
Number of stewards/marshals	
Estimated number of participants	
Presence of children	
Presence of vehicles	
Nature of visual displays	
Nature of chanting/singing/shouting	
Nature of any weapons	
Nature of any aggressive actions	
Attitudes to the police	
Attitudes to opponents/spectators	
Any road blockages, barricades, etc.	
Any additional comments	

3. Policing the Assembly	Description and Numbers
Describe the main police units present.	
Describe the location of police units.	
Describe the police uniforms, e.g., normal, riot gear, plainclothes.	
Police equipment available/visible, e.g., guns, gas, water cannons, horses, dogs, other.	
Location and number of any barriers erected.	
Were police reserves visible? State locations, numbers, equipment.	
Describe any communication between police and organizers.	
How did police respond to participants in the assembly?	
Did police try to disperse the assembly? If so, why?	
Did the police give audible warnings?	
If so, how long did the police wait before acting?	
What actions did the police take to disperse the assembly?	
Describe any force used by the police towards participants in the assembly.	
How did the participants in the assembly react?	
Did the police arrest/detain any people in the assembly?	
Were any participants in the assembly visibly injured?	
Did the police arrest any other people (spectators, journalists, etc.) at the assembly?	
Were any other people (spectators, journalists, etc.) present at the assembly visibly injured?	
Were any police officers visibly injured by actions of the assembly participants?	
Any additional comments	

4. Counter-demonstration	Description and Numbers
Type of counter-demonstration	
Purpose of counter-demonstration	
Legal status of counter-demonstration	
Starting time/place of counter-demonstration	
Destination of counter-demonstration	
Main elements of route	
Time of finish/dispersal	
Name of organizer/organization	
Was the organizer present?	
Number of stewards/marshals	
Estimated number of participants	
Presence of children	
Presence of vehicles	
Nature of visual displays	
Nature of chanting/singing/shouting	
Nature of any weapons	
Nature of any aggressive actions	
Attitudes to the police	
Attitudes to opponents/spectators	
Any additional comments	

5. Policing counter-demonstration	Description and Numbers
Describe any communication between police and the organizers of the counter-demonstration.	
How did the police respond to participants in the counter-demonstration?	
Did the police try to disperse the counter-demonstration? If so, why	
Did the police give any audible warnings?	
If so, how long did the police wait before acting?	
What actions did the police take to disperse the counter-demonstration?	
Describe any force used by the police towards participants in the counter-demonstration?	
How did the participants in the counter-demonstration react?	
Did the police arrest any people in the counter-demonstration?	
Were any participants in the counter-demonstration visibly injured?	
Were any police officers visibly injured by the counter-demonstrators?	
Any additional comments	

## Documents on Monitoring and Freedom of Assembly

The following documents on monitoring and freedom of assembly are accessible either in hard copy, online, or both. All are available in English, and some are also available in Russian.

Charter for Human Rights, "Freedom of Assembly in Kazakhstan: Country Monitoring Report", 2007.

CREDO, "Implementation of Freedom of Assembly Policies in Moldova: January – December 2008", 2009, <<http://credo.md/arhiva/documente/MoldovaAssemblyMonitoring2008%20en%20v4.pdf>>.

Demos Centre, "Freedom of Assembly, Review of the Situation. Russia 2008", 2008.

Helsinki Committee of Armenia "Monitoring of the Freedom of Peaceful Assembly in Armenia: Report", 2009, <[http://www.armhels.com/DownloadFile/2goeng-Freedom\\_of\\_Peaceful\\_Assembly.pdf](http://www.armhels.com/DownloadFile/2goeng-Freedom_of_Peaceful_Assembly.pdf)>.

Christine Loudes, *Handbook on Observation of Pride Marches* (Brussels: ILGA Europe, 2006), <[http://www.ilga-europe.org/europe/publications/non\\_periodical](http://www.ilga-europe.org/europe/publications/non_periodical)>.

National Lawyers Guild, *Legal Observers Training Manual* (New York: National Lawyers Guild, 2003), <[http://awesome.nlg.org/wp-content/uploads/2010/02/LO\\_Manual.pdf](http://awesome.nlg.org/wp-content/uploads/2010/02/LO_Manual.pdf)>.



Office of the High Commissioner for Human Rights, *Training Manual on Human Rights Monitoring* (New York and Geneva: United Nations, 2001), Chapter XV, <<http://www.ohchr.org/english/about/publications/training.htm>>.

OSCE Office for Democratic Institutions and Human Rights and Venice Commission of the Council of Europe, *Guidelines on Freedom of Peaceful Assembly. Second Edition* (Warsaw: ODIHR, 2010), <<http://www.osce.org/files/documents/4/0/73405.pdf>>.

OSCE Office for Democratic Institutions and Human Rights, *Trial Monitoring: A Reference Manual for Practitioners* (Warsaw: ODIHR, 2008), <<http://www.osce.org/odihr/31636>>.

Other information and ODIHR documents related to freedom of assembly are available at: <<http://www.osce.org/odihr/43618>>.

# Appendix 1: The ODIHR and Council of Europe's Venice Commission Guidelines on Freedom of Peaceful Assembly<sup>14</sup>

## 1. Freedom of Peaceful Assembly

**1.1 Freedom of peaceful assembly** is a fundamental human right that can be enjoyed and exercised by individuals and groups, unregistered associations, legal entities and corporate bodies. Assemblies may serve many purposes, including the expression of diverse, unpopular or minority opinions. The right can be an important strand in the maintenance and development of culture, such as in the preservation of minority identities. The protection of the freedom to peacefully assemble is crucial to creating a tolerant and pluralistic society in which groups with different beliefs, practices or policies can exist peacefully together.

**1.2 Definition of assembly.** For the purposes of the Guidelines, an assembly means the intentional and temporary presence of a number of individuals in a public place for a common expressive purpose. This definition recognizes that, although particular forms of assembly may raise specific regulatory issues, all types of peaceful assembly – both static and moving assemblies, as well as those that take place on publicly or privately owned premises or in enclosed structures – deserve protection.

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<sup>14</sup> The Guidelines were originally produced by ODIHR in March 2007. They were endorsed by the European Commission for Democracy through Law (the Venice Commission) at its session in June 2008. A revised, expanded, and updated edition of the Guidelines was published in 2010.

**1.3 Only peaceful assemblies are protected.** An assembly should be deemed peaceful if its organizers have professed peaceful intentions and the conduct of the assembly is non-violent. The term “peaceful” should be interpreted to include conduct that may annoy or give offence, and even conduct that temporarily hinders, impedes or obstructs the activities of third parties.

## **2. Guiding Principles**

**2.1 The presumption in favour of holding assemblies.** As a fundamental right, freedom of peaceful assembly should, insofar as possible, be enjoyed without regulation. Anything not expressly forbidden by law should be presumed to be permissible, and those wishing to assemble should not be required to obtain permission to do so. A presumption in favour of this freedom should be clearly and explicitly established in law.

**2.2 The state’s positive obligation to facilitate and protect peaceful assembly.** It is the primary responsibility of the state to put in place adequate mechanisms and procedures to ensure that the freedom is practically enjoyed and not subject to undue bureaucratic regulation. In particular, the state should always seek to facilitate and protect public assemblies at the organizers’ preferred location and should also ensure that efforts to disseminate information to publicize forthcoming assemblies are not impeded.

**2.3 Legality.** Any restrictions imposed must have a formal basis in law and be in conformity with the European Convention on Human Rights and other international human rights instruments. To this end, well-drafted legislation is vital in framing the discretion afforded to the authorities. The law itself must be compatible with international human rights standards and be sufficiently precise to enable an individual to assess whether or not his or her conduct would be in breach of the law, as well as the likely consequences of any such breaches.

**2.4 Proportionality.** Any restrictions imposed on freedom of assembly must be proportional. The least intrusive means of achieving the legitimate objective being pursued by the authorities should always be given preference. The principle of proportionality requires that authorities do not routinely impose restrictions that would fundamentally alter the character of an event, such as relocating assemblies to less central areas of a city. A blanket application of legal restrictions tends to be over inclusive and, thus, will fail the proportionality test, because no consideration has been given to the specific circumstances of the case.

**2.5 Non-discrimination.** Freedom of peaceful assembly is to be enjoyed equally by everyone. In regulating freedom of assembly the relevant authorities must not discriminate against any individual or group on any grounds. The freedom to organize

and participate in public assemblies must be guaranteed to individuals, groups, un-registered associations, legal entities and corporate bodies; to members of minority ethnic, national, sexual and religious groups; to nationals and non-nationals (including stateless persons, refugees, foreign nationals, asylum seekers, migrants and tourists); to children, women and men; to law-enforcement personnel; and to persons without full legal capacity, including persons with mental illnesses.

**2.6 Good administration.** The public should be informed which body is responsible for taking decisions about the regulation of freedom of assembly, and this must be clearly stated in law. The regulatory authority should ensure that the general public has adequate access to reliable information about its procedures and operation. Organizers of public assemblies and those whose rights and freedoms will be directly affected by an assembly should have the opportunity to make oral and written representations directly to the regulatory authority. The regulatory process should enable the fair and objective assessment of all available information. Any restrictions placed on an assembly should be communicated promptly and in writing to the event organizer, with an explanation of the reason for each restriction. Such decisions should be taken as early as possible so that any appeal to an independent court can be completed before the date provided in the notification for the assembly.

**2.7 The liability of the regulatory authority.** The regulatory authorities must comply with their legal obligations and should be accountable for any failure – procedural or substantive – to do so. Liability should be gauged according to the relevant principles of administrative law and judicial review concerning the misuse of public power.

### **3. Restrictions on Freedom of Assembly**

**3.1 Legitimate grounds for restriction.** The legitimate grounds for restriction are prescribed in international and regional human rights instruments. These should not be supplemented by additional grounds in domestic legislation.

**3.2 Public space.** Assemblies are as legitimate uses of public space as commercial activity or the movement of vehicular and pedestrian traffic. This must be acknowledged when considering the necessity of any restrictions.

**3.3 Content-based restrictions.** Assemblies are held for a common expressive purpose and, thus, aim to convey a message. Restrictions on the visual or audible content of any message should face a high threshold and should only be imposed if there is an imminent threat of violence.

**3.4 “Time, place and manner” restrictions.** A wide spectrum of possible restrictions that do not interfere with the message communicated is available to the regulatory authority. Reasonable alternatives should be offered if any restrictions are imposed on the time, place or manner of an assembly.

**3.5 “Sight and sound”.** Public assemblies are held to convey a message to a particular target person, group or organization. Therefore, as a general rule, assemblies should be facilitated within “sight and sound” of their target audience.

#### **4. Procedural Issues**

**4.1 Notification.** It is not necessary under international human rights law for domestic legislation to require advance notification about an assembly. Indeed, in an open society, many types of assembly do not warrant any form of official regulation. Prior notification should, therefore, only be required where its purpose is to enable the state to put in place necessary arrangements to facilitate freedom of assembly and to protect public order, public safety and the rights and freedoms of others. Any such legal provision should require the organizer of an assembly to submit a notice of intent rather than a request for permission. The notification process should not be onerous or bureaucratic. The period of notice should not be unnecessarily lengthy, but should still allow adequate time for the relevant state authorities to make the necessary plans and preparations to satisfy their positive obligations, and for the completion of an expeditious appeal to (and ruling by) a court should any restrictions be challenged. If the authorities do not promptly present any objections to a notification, the organizers of a public assembly should be able proceed with their activities according to the terms presented in their notification and without restriction.

**4.2 Spontaneous assemblies.** Where legislation requires advance notification, the law should explicitly provide for an exception from the requirement where giving advance notice is impracticable. Such an exception would only apply in circumstances where the legally established deadline cannot be met. The authorities should always protect and facilitate any spontaneous assembly so long as it is peaceful in nature.

**4.3 Simultaneous assemblies.** Where notification is provided for two or more unrelated assemblies at the same place and time, each should be facilitated as best as possible. The prohibition of a public assembly solely on the basis that it is due to take place at the same time and location as another public assembly will likely be a disproportionate response where both can be reasonably accommodated. The principle of non-discrimination requires, further, that assemblies in comparable circumstances do not face differential levels of restriction.

**4.4 Counter-demonstrations.** Counter-demonstrations are a particular form of simultaneous assembly in which the participants wish to express their disagreement with the views expressed at another assembly. The right to counter-demonstrate does not extend to inhibiting the right of others to demonstrate. Indeed, demonstrators should respect the rights of others to demonstrate as well. Emphasis should be placed on the state's duty to protect and facilitate each event where counter-demonstrations are organized or occur, and the state should make available adequate policing resources to facilitate such related simultaneous assemblies, to the extent possible, within "sight and sound" of one another.

**4.5 Decision-making.** The regulatory authorities should ensure that the decision making process is accessible and clearly explained. The process should enable the fair and objective assessment of all available information. Any restrictions placed on an assembly should be communicated promptly and in writing to the event organizers, with an explanation of the reason for each restriction. Such decisions should be taken as early as possible so that any appeal to an independent court can be completed before the date for the assembly provided in the notification.

**4.6 Review and appeal.** The right to an effective remedy entails the right to appeal the substance of any restrictions or prohibitions on an assembly. An initial option of administrative review can both reduce the burden on courts and help build a more constructive relationship between the authorities and the public. However, where such a review fails to satisfy the applicant, there should be a mechanism for appeal to an independent court. Appeals should take place in a prompt and timely manner so that any revisions to the authorities' decision can be implemented without further detriment to the applicant's rights. A final ruling, or at least relief through an injunction, should, therefore, be given prior to the date for the assembly provided in the notification.

## **5. Implementing Freedom of Peaceful Assembly Legislation**

**5.1 Pre-event planning with law-enforcement officials.** Wherever possible, and especially in cases of large assemblies or assemblies related to controversial issues, it is recommended that the organizer discuss with the law-enforcement officials the security and public-safety measures that are to be put in place prior to the event. Such discussions might, for example, cover the deployment of law-enforcement personnel, stewarding arrangements and particular concerns relating to the policing operation.

**5.2 Costs.** The costs of providing adequate security and safety (including traffic and crowd management) should be fully covered by the public authorities. The state must not levy any additional financial charge for providing adequate policing. Organizers

of non-commercial public assemblies should not be required to obtain public-liability insurance for their event.

**5.3 A human rights approach to policing assemblies.** The policing of assemblies must be guided by the human rights principles of legality, necessity, proportionality and non-discrimination and must adhere to applicable human rights standards. In particular, the state has a positive duty to take reasonable and appropriate measures to enable peaceful assemblies to take place without participants fearing physical violence. Law-enforcement officials must also protect participants of a peaceful assembly from any person or group (including *agents provocateurs* and counter-demonstrators) that attempts to disrupt or inhibit the assembly in any way.

**5.4 The use of negotiation and/or mediation to de-escalate conflict.** If a stand-off or other dispute arises during the course of an assembly, negotiation or mediated dialogue may be an appropriate means of trying to reach an acceptable resolution. Such dialogue – although not always successful – can serve as a preventive tool to help avoid the escalation of conflict, the imposition of arbitrary or unnecessary restrictions, or recourse to the use of force.

**5.5 The use of force.** The use of force must be regulated by domestic law, which should set out the circumstances that justify its use (including the need to provide adequate prior warnings) and the level of force acceptable to deal with various threats. Governments should develop a range of responses that enable a differentiated and proportional use of force. These responses should include the development of nonlethal incapacitating weapons for use in appropriate situations where other more peaceful interventions have failed.

**5.6 The liability and accountability of law-enforcement personnel.** If the force used is not authorized by law, or more force was used than necessary in the circumstances, law-enforcement personnel should face civil and/or criminal liability, as well as disciplinary action. Law-enforcement personnel should also be held liable for failing to intervene where such intervention might have prevented other officers from using excessive force. Where it is alleged that a person is physically injured by law-enforcement personnel or is deprived of his or her life, an effective, independent and prompt investigation must be conducted.

**5.7 The liability of organizers.** Organizers of assemblies should not be held liable for failure to perform their responsibilities if they have made reasonable efforts to do so. The organizers should not be liable for the actions of individual participants or for the actions of non-participants or *agents provocateurs*. Instead, there should be individual

liability for any individual who personally commits an offence or fails to carry out the lawful directions of law-enforcement officials.

**5.8 Stewarding assemblies.** It is recommended that the organizers of assemblies be encouraged to deploy clearly identifiable stewards to help facilitate the holding of the event and ensure compliance with any lawfully imposed restrictions. Stewards do not have the powers of law-enforcement officials and should not use force but, instead, should aim to obtain the co-operation of assembly participants by means of persuasion.

**5.9 Monitors.** The independent monitoring of public assemblies provides a vital source of information on the conduct of assembly participants and law-enforcement officials. This information may be used to inform public debate and, usefully, can also serve as the basis for dialogue among government, local authorities, law-enforcement officials and civil society. NGOs and civil society organizations play a crucial watchdog role in any democracy and must, therefore, be permitted to freely observe public assemblies.

**5.10 Media access.** The role of the media as public watchdogs is to impart information and ideas on matters of public interest – information that the public also has a right to receive. Media reports can thus provide an otherwise absent element of public accountability for both organizers of assemblies and law-enforcement officials. Media professionals should, therefore, be guaranteed as much access as is possible to an assembly and to any related policing operation.



## Appendix 2: The Media and Freedom of Assembly

Adapted from: Miklós Haraszti, *Special Report: Handling of the media during political demonstrations, Observations and Recommendations*, (Vienna: OSCE Representative on Freedom of the Media, June 2007).<sup>15</sup>

Both law-enforcement officials and journalists have special responsibilities at public demonstrations. Law-enforcement officials are responsible for ensuring that citizens can exercise their right to peaceful assembly; for protecting the rights of journalists to cover the event, regardless of its legal status; and for curbing, by peaceful means, the spread of violence by peaceful means. Journalists have the responsibility to be clearly identified as such and to report without taking measures to inflame the situation, and they should not become involved in the demonstration itself.

Law-enforcement officials have a constitutional responsibility not to prevent or obstruct the work of journalists during public demonstrations, and journalists have a right to expect fair and restrained treatment by the police. This flows from the role of law-enforcement officials as the guarantors of public order, including the right to the free flow of information, and their responsibility for ensuring the right to freedom of assembly.

### **“Unsanctioned” Demonstrations**

While the very notion of an **“unsanctioned demonstration”** is sometimes viewed as an anomaly, there are legitimate reasons for the authorities to refuse the use of

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<sup>15</sup> The report can be found at <<http://www.osce.org/fom/25744>>, in English, and at <<http://www.osce.org/fom/25745>>, in Russian.

certain locations, either on the grounds of security or disruption to public transport. Governments have sometimes tried to explain away a disproportionate reaction of law-enforcement officials against journalists and demonstrators by citing the “unsanctioned” nature of the demonstration.

The media should be impartial regarding the circumstances under which an event takes place, regardless of whether it is planned or spontaneous. Put simply, it is their duty as media professionals to provide coverage, and they should be afforded the same privileges by the police as if the demonstration were sanctioned.

**1. Law-enforcement officials have a constitutional responsibility not to prevent or obstruct the work of journalists during public demonstrations. Journalists have a right to expect fair and restrained treatment by the police.**

**2. Senior officials responsible for police conduct have a duty to ensure that officers are adequately trained about the role and function of journalists and, particularly, their role during a demonstration. In the event of an over-reaction by the police, the issue of police behaviour vis-à-vis journalists should be dealt with separately, regardless of whether the demonstration was sanctioned or not. A swift and adequate response from senior police officials is necessary to ensure that such an over-reaction is not repeated in the future and should send a strong signal that such behaviour will not be tolerated.**

### **Accreditation to cover political demonstrations**

The issue of journalists’ accreditation for public demonstrations has also been raised, particularly in the context of unsanctioned demonstrations. Accreditation is required only when access is necessarily restricted, such as access to the press gallery in a parliament building. In a public place, space is not limited and, therefore, there is no requirement for special accreditation.

**3. There is no need for special accreditation to cover demonstrations, except under circumstances where resources, such as time and space at certain events, are limited. Journalists who decide to cover “unsanctioned demonstrations” should be afforded the same respect and protection by the police as those afforded to them during other public events.**

### **Respect for printed material and equipment**

The personal equipment of journalists should be respected at all times. Confiscation of the tools of their trade, such as cameras or recording equipment, is a criminal offence

and is like switching off the microphone of the main speaker at a sanctioned demonstration. If police break or smash equipment deliberately, this should be considered a criminal offence, and those responsible should be held accountable.

**4. Wilful attempts to confiscate, damage or break journalists' equipment in an attempt to silence reporting is a criminal offence, and those responsible should be held accountable under the law. Confiscation by the authorities of printed material, footage, sound clips or other reportage is an act of direct censorship and, as such, is a practice prohibited by international standards. The role, function, responsibilities and rights of the media should be integral to the training curriculum for law-enforcement officials, whose duties include crowd management.**

### **Responsibilities of journalists**

The role of journalists is to *report* on the event, and not to become personally *involved* in it. If a journalist is politically active, he or she must choose in what capacity to attend a political rally, *either* as a demonstrator *or* as a journalist.

**5. Journalists should identify themselves clearly as such, should refrain from becoming involved in the action of the demonstration, and should report objectively on the unfolding events, particularly during a live broadcast or webcast. Journalists' unions should agree on an acceptable method of identification with law-enforcement agencies and take the necessary steps to communicate this requirement to media workers. Journalists should take adequate steps to inform and educate themselves about police measures that will be taken in case of a riot.**

### **Conclusion**

It is the role of the police to ensure that key civil rights, such as personal security and freedom of movement, are afforded to all citizens, including journalists.

**6. Both law-enforcement agencies and media workers have the responsibility to act according to a code of conduct, which should be reinforced by police chiefs and chief editors through training. Police chiefs can assist by ensuring that staff officers are informed of the role and function of journalists. They should also take direct action when officers overstep the boundaries of these duties. Media workers can assist by remaining outside the action of the demonstration and clearly identifying themselves as journalists.**



This handbook was produced as a guide for organizations and individuals who might initiate independent monitoring of peaceful assemblies in their own country. It draws and builds on the ODIHR and Venice Commission *Guidelines on Freedom of Peaceful Assembly*, which identify core issues in the exercise of freedom of peaceful assembly and set out a number of guiding principles that should govern its regulation. The Handbook also draws on extensive monitoring experience in numerous countries to outline the key human rights principles related to freedom of assembly and provide guidance on organizing monitoring projects, monitoring at assemblies, and producing reports to highlight the issues that are raised.

