



MONITORING THE RIGHT TO FREE ASSEMBLY

Blazhen Maleski

2017 REPUBLIC OF
2018 MACEDONIA

 **#right2freeassembly**



Author: Blazhen Maleski (Reactor - Research in Action)

Published in January 2019



The monitoring report was conducted as part of the ‘Monitoring the Right to Free Assembly’ regional project, managed by the European Center for Not-for-Profit Law (ECNL). The project is made possible by the International Center for Not-for-Profit Law (ICNL) through the Civic Space Initiative.

This publication is wholly financed by the Government of Sweden. The Government of Sweden does not necessarily share the opinions here within expressed. The author bears the sole responsibility for the content.

Copyright © 2019 by the European Center for Not-for-Profit Law and Reactor. All rights reserved.

(Pictures on the cover pages are provided by Vanco Dzambaski)

Table of Contents

I. EXECUTIVE SUMMARY	5	:
II. BACKGROUND AND CONTEXT	6	:
III. LEGAL FRAMEWORK	11	:
Legislative Framework	12	:
Institutional Framework	17	:
IV. ADMINISTRATION OF FREEDOM OF ASSEMBLY	20	:
V. POLICING OF ASSEMBLIES	27	:
VI. CRIMINALIZATION OF PROTESTS	34	:
Case studies	37	:
Positive aspects?	40	:
VII. RECOMMENDATIONS	43	:
ANNEX - PROTESTS IN 2017	44	:
BIBLIOGRAPHY	58	:



I. EXECUTIVE SUMMARY

The general legal framework regulating the freedom of assembly (FOA) in the Republic of Macedonia remains liberal and comprehensive. This is mainly enabled by the right to FOA without notification and any restrictions guaranteed in the Constitution of the country.

In practice, however, there is a different situation when it comes to the right to freely assemble. The burdensome responsibilities of organizers of assemblies under the Law on Public Assemblies continue to be the main reason for almost having exclusively non-announced and spontaneous assemblies. The report gives a broad perspective on the current situation on the freedom of assembly, from criminalization and policing to specific cases that include the mayor obstacles still faced by active citizen organizing assemblies on a variety of topics.

During the years the number of assemblies has been on the rise. The report shows negative and positive cases of the use of the right of FOA. The situation of accountability of police has seen some improvement during the reporting period, independent mechanisms for oversight of police work have been put in place but have to be further monitored in the following years for their effectivity.

The overall assessment in this report indicates a further need for capacity building of authorities, changing the protocols for assemblies and lowering the impact of the political factors inside the administration responsible for FOA. Legislative changes have to be passed in order for the country's legislative framework to align with the international standards and enable citizens to fully exercise the right for freedom of assembly.

II. BACKGROUND AND CONTEXT



The year of 2017 was a rather politically turbulent one for the country. The elections in December 2016 had no clear majority in parliament, with both the opposition and position claiming victory.¹ This also triggered the deepening and prolonging of the political crises of previous years.² The prolongation of the political crisis further deepened the polarization of citizens in the country, which resulted in a higher number of public assemblies than the previous year (see table 1).

We used the Freedom of Information act to obtain information from the Ministry of Interior (MOI) of official records of assemblies for the period of time from 2016 to June 2018. However, the Ministry of Interior, in their own statistical methods, do not separate assemblies and public manifestations such as concerts or political rallies. Furthermore, the internal systematization of the network of police stations is centralized in bigger cities around the country. This has impact on the keeping records and statistics about the place

of the assembly, for example even though an assembly happened in Kocani (a city close to Stip), the statistics will count those assemblies in the regional station of Stip. Additionally, the MOI does not have specific information on why a public gathering or assembly has been stopped or postponed. This makes it difficult to fully interpret the data that they provided through FOI requests. According to official data obtained from the MOI, there were thirteen public gatherings or assemblies that were relocated or stopped over the course of two and a half years. However, as mentioned above, there is no specific information from the MOI on the reasons for the relocation or breaking apart of public gatherings and assemblies. From our media analysis we can conclude that the two interrupted assemblies in Skopje are the assemblies in front of the Office of the President of the Republic of Macedonia in the city center that happened on May 5th 2016 and the assembly whose participants stormed into the Parliament on April 27th 2017.

As part of our research for this report, we conducted an analysis of media reports in order to identify trends and types of protests, as well as main challenges in exercising FOA in 2017 and 2018. While the media reported

¹ Live Macedonia Elections 2016, Balkan insight <http://www.balkaninsight.com/en/article/live-macedonia-elections-2016-12-09-2016>

² Explainer: Roots Of Macedonia's Political Crisis Run Deep, Radio Free Europe, <https://www.rferl.org/a/explainer-crisis-in-macedonia-leads-to-violent-protests/27675969.html>



on over 150 assemblies and protests over the course of a year and a half, we have selected four specific assemblies in order to identify key challenges and good practices. The selection of protests for further analysis was based on two main criteria. The first criterion was attracted media attention, which we defined as the protest been covered/reported on by at least three major media outlets. The reasoning for this criterion is that sufficient media coverage gives protests relevance, as well as contributes to the public discourse. The second criterion was specific situations that occurred during the organization of assemblies that either hindered or enabled the right to freedom of assembly.

From the media analysis (Annex 1) we can observe two main types of assemblies. First and foremost are Political protests, especially in the spring of 2017. The formal group "Za zaednicka Makedonija" (For a common/shared Macedonia) organized 76 political protests in the period between 28.02.2017 and 15.05.2017. "For a Shared/Common Macedonia" started their daily protests against what they dubbed the "Albanian platform". The protests in front of the Parliament building continued daily and were peaceful in conduct, despite xenophobic and Albano-phobic chants, slurs and even sporadic calls for violence should the new majority elect a new president of the Parliament. The protests escalated on April 27th after the MPs voted in a new president of the Parliament, ending months of political deadlock following the national elections and clearing the way for a new government to be formed.³ Another part qualified as

3 "For a common Macedonia with gas chambers?!" Civil Media 28th of February 2017, <http://civilmedia.mk/zadnitchka-makdonia-so-gasni-komori/>

political protests are the ones fighting for the rights of the workers, breached civil rights or other forms of political engagement in the resolution of the problems of certain types of citizen groups. The second type of assemblies are environmental protests that called for a better air quality, stoppage of new landmines or other measures for a safer and cleaner environment.

As is the case in the previous reports⁴, the right to peaceful assembly is largely enabled. However, in 2017 there have been cases (further elaborated in the specific cases section) where the need for an improved legal framework could improve the right for citizens to freely assembly. The first area for improvement is the framework for policing of assemblies. With the case of the 27th of April 2017 assembly organized by "For a Common/Shared Macedonia", the need for stricter and transparent policing protocol became evident. As noted in the previous reports, the broad legal responsibilities of the police can cause uncertainty and an unclear practice of the rights of police to stop or not stop an assembly. The second needed improvement is regarding the legal threshold of the number of people participating that can be assessed as an assembly. As one of the cases analyzed in this report shows, the minimum threshold of 20 people to be considered an assembly presents an administrative burden for police and peaceful participants of non-announced assemblies. Furthermore, this example further confirmed the need to amend the existing legislation in order to remove the minimum requirement, in line with OSCE guidelines.

4 Freedom of Assembly in Macedonia, Reactor – Research in Action, http://reactor.org.mk/CMS/Files/Publications/Documents/Macedonia_WBA%20Project%20Report.pdf

All in all, the context and the situation in relation to freedom of peaceful assembly has not changed in the past five years. The key points of the legislative framework regulating the right of freedom of assembly remained mostly the same. Some minor changes have been done in the area of policing, in the area of usage of different types of equipment. This is further explained in the legislative framework.

During the research period, we conducted interviews with important stakeholders and organizers of assemblies. The majority of the interviewed regard the right to peaceful assembly as an equal right for all. The interview with representatives from the Skopje Police Station highlighted one important fact, namely *"we as a police force are always respecting the laws and internal framework. However, it is difficult to follow these instructions when an assembly is not pre-announced to us. Firstly, because nobody from the assembly is taking the responsibilities that organizers have according to the FOA law. Secondly, because we cannot actively communicate with the participants of the assembly. However, we are treating all assemblies in the same way, it does not matter if someone is protesting against the government or if they are protesting for better air quality."*⁵

5 Interview with representatives from the police station Skopje



III. LEGAL FRAMEWORK

The Republic of Macedonia has a history of constitutional acknowledgment of the right to freedom of assembly. The first constitution from 1946 of then Democratic Federal Macedonia, as part of the Federation of Yugoslavia, stated in article 26 that *“The citizens are guaranteed the freedom of the press, freedom of speech, the right of association, freedom of assembly and manifestations”*⁶. In the second constitution from 1974 of then Socialist Republic of Macedonia, as part of the Federation of Yugoslavia, the right to freedom of assembly is noted in numerous articles as a means of civic participation. However, article 301 stated that the right to freedom of assembly will be regulated in specific laws.⁷

The basic rights of persons living in present day Macedonia, as recognized by international law and provided by the Constitution, are ones of the fundamental values of the Constitution of the Republic of Macedonia (Art. 8). Freedom

of assembly is a right guaranteed in Article 21 of the Constitution of 1991, which states that *“Citizens have the right to assemble peacefully and to express public protest without prior announcement or a special license. The exercise of this right may be restricted only during a state of emergency or war.”*

In accordance with the Constitution, ratified international treaties are to be considered an integral part of the national legal order. In the case of Macedonia, several human rights instruments regulating freedom of assembly are of particular relevance. The Universal Declaration of Human Rights (Article 20(1))⁸ guarantees the right to freedom of assembly and association. The International Covenant on Civil and Political Rights (Article 21)⁹ and the Convention for the Protection of Human Rights

6 First constitution of Democratic Federal Macedonia, available on wikisource, [https://mk.wikisource.org/wiki/%D0%A3%D1%81%D1%82%D0%B0%D0%B2_%D0%BD%D0%B0_%D0%9D%D0%B0%D1%80%D0%BE%D0%B4%D0%BD%D0%B0_%D0%A0%D0%B5%D0%BF%D1%83%D0%B1%D0%BB%D0%B8%D0%BA%D0%B0_%D0%9C%D0%B0%D0%BA%D0%B5%D0%B4%D0%BE%D0%BD%D0%B8%D1%98%D0%B0_\(1946\)](https://mk.wikisource.org/wiki/%D0%A3%D1%81%D1%82%D0%B0%D0%B2_%D0%BD%D0%B0_%D0%9D%D0%B0%D1%80%D0%BE%D0%B4%D0%BD%D0%B0_%D0%A0%D0%B5%D0%BF%D1%83%D0%B1%D0%BB%D0%B8%D0%BA%D0%B0_%D0%9C%D0%B0%D0%BA%D0%B5%D0%B4%D0%BE%D0%BD%D0%B8%D1%98%D0%B0_(1946))

7 Official Gazette of Socialist Republic of Macedonia, date 25.02.1974

8 By succession from the former Socialist Federal Republic of Yugoslavia (SFRY). SFRY was an original Member of the United Nations, the Charter having been signed on its behalf on 26 June 1945 and ratified 19 October 1945, until its dissolution following the establishment and subsequent admission as new Members of its constituent entities. By resolution [A/RES/47/225](#) of 8 April 1993, the General Assembly decided to admit Republic of Macedonia as a Member of the United Nations, the State being provisionally referred to for all purposes within the United Nations as “The former Yugoslav Republic of Macedonia” pending settlement of the difference that had arisen over its name.

9 By succession as of 18.01.1994

and Fundamental Freedoms (Article 11)¹⁰ recognize the right to FOA, allowing restrictions of the right only if they are prescribed by law and are necessary in a democratic society in the interest of national security and public safety, public order, protection of public health or morals, or the rights and freedoms of others. The European Convention on Human Rights (Article 11(2)) allows states to impose lawful restrictions in the exercise of FOA on members of the armed forces, the police or the administration. The Convention on the Rights of the Child (Article 15)¹¹ requires recognition of the right of children to freedom of assembly and association and allows similar restrictions as the ICCPR and the ECHR. Finally, the OSCE Copenhagen Document 1990 (9.2)¹² requires all member states to guarantee FOA, further requiring restrictions to be regulated by law and in accordance with international standards.

LEGISLATIVE FRAMEWORK

The specific legal act that regulates freedom of assembly (FOA) in Macedonia is the Law on Public Assemblies (LPA),¹³ which was first enacted in 1995 and subsequently amended in 2006, 2007 and 2015. The LPA regulates the exercising of FOA by defining what constitutes a public assembly, when a public assembly can be restricted or stopped, as well as stipulates

10 The European Convention on Human Rights of the Council of Europe was signed on 09.11.1995 and ratified on 10.04.1997.

11 By succession as of 2.12.1993

12 Organization for Security and Co-operation in Europe, *Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE*, 29 June 1990. Macedonia is a participating state in the OSCE since 1995.

13 Law on Public Assemblies ("Official Gazette of the Republic of Macedonia" nos. 55/1995, 19/2006, 66/2007 and 152/2015)

obligations for organizers and sanctions for noncompliance with the law. While the LPA for the most part enables FOA and is in accordance with international standards, it still contains formulations that are broad, which in practice may hinder or create uncertainties while exercising this right.

The LPA emphasizes that the right may be exercised in a manner that provides a peaceful expression of opinion and public protest related to socio-economic, cultural, political and other interests. In this regard, it should be noted that the LPA used to contain restrictions to FOA, specifying that public assemblies are allowed only when they do not restrict the right to free movement and other rights determined with the Constitution of citizens that are not participating in the public gathering. The Constitutional Court of the Republic of Macedonia annulled this restriction the same year when it was introduced,¹⁴ concluding that the condition was set too broadly, and therefore was not in accordance with Article 11 (2) of the ECHR which allows only restrictions that *"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 Constitutional Court found that limiting FOA for the purpose of protecting the rights and freedoms of others is justified only when necessary, i.e., when the exercise of FOA seriously endangers others' rights.¹⁵ Therefore, the broad formulation without qualitative

14 Decision of the Constitutional Court of the Republic of Macedonia U. no 31-2006 of 1st of November 2006 ("Official Gazette of the Republic of Macedonia" no. 119/2006)

15 Decision of the Constitutional Court of the Republic of Macedonia U. no 31-2006 of 1st of November 2006 ("Official Gazette of the Republic of Macedonia" no. 119/2006)

criteria was deemed to have left room for interpretation that would allow the authorities to restrict FOA.

LPA defines that assemblies in terms of the law are those of more than 20 citizens, in an open or enclosed space. The threshold of 20 participants for the gathering to be considered a public assembly was added in 2006. Comparatively, international standards and guidelines do not determine a minimum number of people for a gathering to be recognized as a public assembly and thus afforded the protection that comes with the definition. Moreover, the OSCE guidelines stipulate that, *"[a]n assembly, by definition, requires the presence of at least two persons. Nonetheless, 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."*¹⁶ The reasoning of the legislator for introducing the minimal threshold, as well as the specific choice of the number, remains unclear. We find that determining such a threshold may obstruct protection of the right in further instances. Namely, if the number of participants at an assembly falls below 20, the gathering will no longer be considered a public assembly. In such a case, its eventual disruption by others including the authorities will not be considered a crime in terms of Art. 155 of the Criminal Code (as elaborated further in the text).

The Law also provides that a public assembly may be held at any place adequate for the

16 Organization for Security and Co-operation in Europe (OSCE) and Council of Europe's Commission for Democracy through Law (Venice Commission): *Guidelines on Freedom of Peaceful Assembly* (2nd edition), 2010. para. 16

purpose. Minor exceptions include places near public healthcare institutions (and even then only when the assembly prevents access to them or disturbs the peace of the hospitalized), kindergartens and schools while children are there, as well on highways and motorways in a manner that endangers the traffic.

Following the provision in the Constitution that allows for unannounced assemblies and in accordance with international standards, notification in advance is not a legal requirement. While spontaneous assemblies are not specifically regulated, they are allowed because both the Constitution and the Law provide that an assembly can be held without prior announcement. Furthermore, even when an unannounced or a spontaneous assembly is organized, the LPA is still being considered to be the legal act in which the state facilitates public assemblies, if the criteria's (like the one above mentioned that more than 20 people are participating) for a public assembly are met.

However, the LPA does include notification as an option and states that *"[i]n the interest of security, the organizer may inform the Ministry of Interior about holding a public assembly and the measures that are undertaken for its purposes"*. The notification should be submitted in the regional unit of the MOI where the assembly will take place, no later than 48 hours before the expected start of the assembly. While the UN Special Rapporteur on the rights to freedom of assembly and of association, in the 2013 report states that the notification should merely contain information regarding the date, time, duration and location or itinerary of the assembly as well as the name, address and contact details of the

organizer,¹⁷ the Macedonian LPA requires the organizer to provide additional information. Namely, Article 3, Paragraph 3 of the LPA stipulates that besides the time and place of the assembly and name of the organizer, the notification should include the purpose of the assembly, as well as measures undertaken to ensure unobstructed organizing and course of the assembly, as well as information on organizing a security (stewardship) service.¹⁸ As previously stated, the notification is not mandatory.

One of the most ambiguous aspects of the LPA stems from this last provision - the formulation of the obligations of the organizers for maintaining security and order during the assemblies and for their liability. The main obligation of the organizer is to ensure safety and order by organizing a security service during the assembly, in order *"to protect citizens rights, normal flow of traffic, the supply of population with medicine, food, fuel and similar urgent goods, as well as to observe the obligations under international agreements."*¹⁹ Furthermore, the organizer is obligated to end the public assembly and immediately inform the MOI if the life, health, security and personal safety of people and property are jeopardized.²⁰ Noncompliance with these provisions will result in misdemeanor charges and fines of 3.000 and 1.000 EURO for organizers (legal entities and persons

17 UN Human Rights Council, *Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association*, 24 April 2013, A/HRC/23/39, available at: <http://www.refworld.org/docid/51b5c8494.html> . para 53

18 Article 3 of Law on Public Assemblies ("Official Gazette of the Republic of Macedonia" nos. 55/1995, 19/2006, 66/2007 and 152/2015)

19 Article 4, para 1 of Law on Public Assemblies.

20 Article 4, para 4 of Law on Public Assemblies.

respectively).²¹ The organizer is also obligated to cover the costs related to possible damages that occur during the assembly.²²

These obligations are broad and require extensive capacities and expertise from organizers to ensure they are safe from prosecution. The role of the security service the organizer is expected to provide is not defined and it is unclear where their competencies and responsibilities start and where they end. While it is clear that the legislator's intention was to protect the safety, public order and property, this is formulated in such a way that allows the authorities to arbitrarily determine, for example, when safety and property are jeopardized and use it as grounds to either stop the assembly or fine the organizers. Furthermore, the obligations of the organizers to protect the citizens' rights and public order do not correspond with international standards. Namely, the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association states that *"assembly organizers and participants should not be considered responsible (or held liable) for the unlawful conduct of others... [and, together with] assembly stewards, should not be made responsible for the maintenance of public order."*²³

Non-nationals are also allowed to organize and hold public assemblies, but the conditions for them are significantly stricter than those for nationals. Unlike Macedonian citizens,

21 Article 9 of Law on Public Assemblies .

22 Article 7, Law on Public Assemblies

23 UN Human Rights Council, *Report of the Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association*, 21 May 2012, A/HRC/20/27, available at: <http://www.refworld.org/docid/525fad894.html> [accessed 16 June 2016]para. 31.

who can hold a public assembly without prior announcement, Article 8 of the LPA requires non-nationals to report the assembly and obtain approval from the MOI. In addition to misdemeanor fines, non-compliance can result in deportation from the country and a ban on re-entry that can last from one to ten years or a permanent ban. These strict provisions are not in accordance with international standards. The UN Special Rapporteur on the rights to freedom of peaceful assembly and of association stresses that States should make particular efforts to ensure equal and effective protection of the rights of groups or individuals who have historically experienced discrimination, including non-nationals and that this duty may require that authorities take additional measures to protect and facilitate the exercise of the right to freedom of assembly by such groups.²⁴

Besides the primary legal act that regulates FOA, there is secondary legislation that is pertinent for the exercise of this right. The Criminal Code of the Republic of Macedonia, in the sections dealing with crimes against freedoms and rights²⁵ and crimes against the public order²⁶ includes provisions directly or indirectly related to FOA. The Criminal Code sanctions restriction and abuse of the right, providing

24 UN Human Rights Council, *Joint report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur on extrajudicial, summary or arbitrary executions on the proper management of assemblies*, 4 February 2016, A/HRC/31/66, available at: <http://www.refworld.org/docid/575135464.html>. para 16

25 Chapter 15, Criminal Code ("Official Gazette of the Republic of Macedonia" nos. 37/1996, 80/1999, 4/2002, 43/2003, 19/2004, 81/2005, 60/2006, 73/2006, 7/2008, 139/2008, 114/2009, 51/2011, 135/2011, 185/2011, 142/2012, 166/2012, 55/2013, 82/2013, 14/2014, 27/2014, 28/2014, 41/2014, 115/2014, 132/2014, 160/2014, 199/2014, 196/2015 and 226/2015)

26 Chapter 33, Criminal Code.

a maximum of one-year imprisonment for whosoever by force, a serious threat, fraud or in any other manner prevents or disturbs calling for or organizing a peaceful public gathering. A stricter punishment of three months to three years is foreseen if the crime is committed by an official person that misuses their official position or authorization.²⁷

Although not directly related to FOA, two additional articles of the Criminal Code became relevant because they have been extensively used in practice for bringing charges and subsequently sentencing protesters. Participating in a crowd that prevents an official from performing an official duty is punishable with imprisonment of three months to up to three years.²⁸ Similarly, a person participating in a crowd that commits a crime through a joint action can be fined or sentenced to imprisonment of up to three years.²⁹ On the bases of these two articles, criminal charges have been brought against participants in protests and assemblies.

Another act relevant for the free exercise of the right to freedom of assembly is the Law on Police³⁰ which regulates police matter, organization of the police, police authorities, as well as rights and obligations of police officers. The current law has been in place since 2006, with changes and amendments following in 2009, 2012, 2014, 2015, three times in 2016 and the final changes in 2018. Chapter 19 is of particular interest, as it regulates the use of force by the police, as well as means of

27 Article 155, Criminal Code.

28 Article 384, para 1. Criminal Code.

29 Article 385, para 1. Criminal Code

30 Law on Police ("Official Gazette of the Republic of Macedonia" nos. 114/2006, 6/2009, 145/2012, 41/2014 and 33/2015)

coercion.³¹ The timing of the amendments in 2015 to the Law on Police that expanded this list to include the use of electrical paralyzers, pyrotechnic explosive ordinances and rubber bullets was of particular interest. The changes were introduced at the beginning of March 2015 - a time of significantly increased social unrest, including prolonged students protests that entailed occupations of campuses, as well as civic protests against the authorities following the publication of wiretapping materials that exposed the prime minister and a number of his key ministers.³² Following the changes to the Law, the European Commission stated that "[t]hese broad powers need to be balanced by accompanying provisions to safeguard human rights and there is a need for clear operational standards."³³ These changes were rolled back with amendments to the Law on Police in 2018, specifically the use of electrical paralyzers and rubber bullets, which can no longer be part of the equipment police is use against assemblies. However, there is still confusion when it comes to freedom of assembly in some of the articles. For instance, article 93-a regulates how law enforcement should be using video surveillance, providing a timeframe for how long the videos can be held. The last paragraph of that article states that the police force is required to keep video materials for 45 days since the materials

31 Article 91. Law on Police.

32 In early February 2015, the largest opposition party published phone conversations from illegal wiretapping that exposed mass illegal surveillance and gross abuse of power by the authorities. Selected extracts available in English, see, "Interactive Overview of Macedonia's Largest Wire-tapping Scandal", <http://interactive.aljazeera.com/ajb/2015/makedonija-bombe/eng/index.html>

33 European Commission, The Former Yugoslav Republic of Macedonia Progress Report 2014, COM(2014)700 final of 8.10.2014. p. 58

have been collected. This longer period of requirement to keep video materials resulted, during previous years, in leaked police surveillance videos, with some media outlets targeting specific individuals in order to publicly announce their identity and organize smear campaigns³⁴ against members of civil society.

The current government had announced "*changes in the model and legal framework for external, independent oversight mechanism for the work of the police*", which were adopted by Parliament in late October, with changes in the laws for the public prosecution office, law on criminal procedure and law on the courts. These amendments focused on specific changes for the creation of a separate department inside the public prosecution office³⁵ and a special court for investigation³⁶ and prosecution of crimes committed by persons with police powers. This model is striving to create an external and independent oversight mechanism for the work of the police, beside the institutional framework that the police already has in the form of internal affairs control. This is an important and welcome development, and it remains to be seen how successfully it is implemented in practice.

34

35 Passed amendments on the law for public prosecution, on the 35th session of parliament <http://sobranie.mk/materialdetails.nspx?materialId=336b1882-dba6-4840-a9aa-4036d42168c5>

36 Passed amendments on the law for courts, on the 34th session of parliament <http://sobranie.mk/materialdetails.nspx?materialId=29e77141-560a-48a6-802f-4942d8053d3e>

INSTITUTIONAL FRAMEWORK

The institutional set up for the exercise of the FOA includes various institutions with different authorizations and powers.

The primary institution with regard to FOA is **the Ministry of Interior (MOI)**. The Bureau for Public Security (BPS), as a body within the MOI, is responsible for conducting all police affairs and coordinates the police force. Under the BPS, there are regional Departments for Internal Affairs responsible for planning and policing public assemblies on the territory under their jurisdiction. The Unit for Public Assemblies and Sports Events, as well as the Rapid Deployment Unit are also often used during public assemblies. Policing of assemblies is a separate issue of interest that is more extensively elaborated further in the study.

The Ombudsperson is a special, specific, professional and independent body with special status for the protection of citizens' rights.³⁷ The Ombudsperson can undertake activities against violations of the constitutional and legal rights of the citizens

37 Law on the Ombudsperson ("Official Gazette of the Republic of Macedonia" nos. 60/2003 and 114/2009)

in various fields,³⁸ including police abuse of authority and violation of police procedures. As an institution it can act ex officio and upon complaint³⁹ and in the course of actions may request necessary information and evidence, including via visits to specific institutions. When the Ombudsperson ascertains that there has been a violation of constitutional and legal rights or other irregularities, the office provides opinions and recommendations, proposes undertaking procedures (including for liability) and may file a motion with the competent public prosecutor for initiation of a procedure in order to determine criminal liability.⁴⁰ The Ombudsperson publishes annual reports regarding the level of ensuring,

38 Relevant for this study, they include: police procedures (abuse and overstepping of official authorities by the police and withholding of the right to defence in police proceedings; violations in the procedures for temporary seizures; not handling of criminal charges filed by citizens; violations of the rights of the convicted and detained persons in the correctional and penitentiary institutions and other institutions with the restricted freedom of movement), non-discrimination and adequate and equitable representation (protection of citizens' rights and monitoring of implementation of the principles of non-discrimination); judiciary (violations of rights resulting from unjustified delay of proceedings, not making of court decisions and their non-delivery to the parties, untimely delivery of regular legal remedies of jurisdiction, non-execution of enforceable orders, the abuse of the court police of their authorities, unjustified delay of administrative-court proceedings (issuing of various certificates, work with parties in the court's intake office, archive, etc.), delay of proceedings or not handling of the claims of citizens due to prosecuting and bringing of charges, violation of the rights of the persons in the institutions with the restricted freedom of movement (prisons, penitentiaries), etc. penitentiary correctional institutions- protection of rights of persons who are serving a sentence of imprisonment and persons against whom detention is carried out by taking actions and measures for realization of rights guaranteed by domestic and international norms and standards; and other rights - acting on complaints submitted by legal entities or citizens when their right is violated by a private entity and because of non-competence of the Ombudsperson the complainants are given legal advice on how to protect their rights.

39 Article 13 in relation to Article 24, Law on Ombudsperson
40 Article 32, Law on Ombudsperson

respecting, promotion and protection of human rights in the country. In the report the Ombudsperson is following the situation on a variety of aspects of human rights, including the FOA situation in the country and how the police are managing assemblies. In the reports, the Ombudsperson gives recommendations on the different aspects that hinder access to human rights.⁴¹

The latest changes in the law for the courts and the law for the public prosecution introduced mechanisms **for external and independent oversight of the work of the police**. What this entails is a separate department within the public prosecution office that will only oversee crimes or human rights violations on part of members of the police force.⁴² Furthermore, with the changes in the law for courts, a specialized court for organized crime has been introduced, which also has the authority over cases involving elected representatives and representatives of the police force.⁴³ As previously mentioned, these changes came into place quite recently, during the final days of drafting this report. It remains to be seen therefore how this framework will function and contribute to the external oversight of police misconduct.

The Standing Inquiry Committee for the Protection of Civil Freedoms and Rights, a Working Body of the Parliament of the

41 Annual reports of the Ombudsperson from 2001 until 2015, last accessed 26.10.2018 http://ombudsman.mk/EN/annual_reports.aspx

42 Passed amendments on the law for public prosecution, on the 35th session of parliament <http://sobranie.mk/materialdetails.nsp?materialId=336b1882-dbaf-4840-a9aa-4036d42168c5>

43 Passed amendments on the law for courts, on the 34th session of parliament <http://sobranie.mk/materialdetails.nsp?materialId=29e77141-560a-48a6-802f-4942d8053d3e>

Republic of Macedonia, considers issues regarding the exercise of basic civil freedoms and rights from various perspectives.⁴⁴ The Committee considers general questions on the implementation of the constitutional provisions on basic civil freedoms and rights, points to the need for adoption of legislation for more comprehensive protection of civil freedoms and rights, as well as reviews communications from citizens and provides opinions. While it cannot carry out investigative and other judicial functions, its findings are the basis for starting a procedure for accountability of public office holders. In the period between 30.12.2016 and 26.10.2018 the Committee held 6 sessions, most of which were public hearings, one session that was a thematic session that inspected the prison conditions in Macedonia and one session on the report of the European Commission.⁴⁵

Finally, the use of public spaces is managed by **local self-government units** that enact decisions on the use of the public spaces. Every local self-government unit individually regulates this use of public spaces in the

44 The establishment of the Committee is foreseen in Article 76 para. 2 of the Constitution. The Committee was originally established with the Decision on the Establishment of Standing Inquiry Committee For Protection Of Civil Freedoms And Rights of 10th of April 1992 ("Official Gazette of the Republic of Macedonia" no. 25/1992) with rather limited competencies. On 26th of January 1995, a Decision on establishment of Permanent Working Bodies of the Assembly ("Official Gazette of the Republic of Macedonia" no. 6/1995) was made, giving the committee its current and expanded scope of competencies. The Committee cannot exercise investigative and other judicial functions. The Committee's findings are the basis for starting a procedure for accountability of public office-holders.

45 Information given by a member of parliament and member of the commission

municipality.⁴⁶ They allow the use of the public spaces for organization of events based on a permit issued by the local officials and with remuneration to be paid by the organizer for use of the space and placement of equipment. The use of space for public assemblies in terms of the LPA is not regulated and only legal entities can submit requests for permits.

46 For the purpose of this research the Decision on use of public spaces of City of Skopje was analyzed due to the fact that most of the assemblies are organized in Skopje. See further Decision on use of public spaces of the City of Skopje, no. 5/2008 Official Gazette of City of Skopje <http://ipserver.skopje.gov.mk/e-skopje/sluzben%20glasnik%20so%20konverzija.nsf/82aa49069edfbbb780256a22004ba9e0/bfc683447e5ac309c1257447004ca77b?OpenDocument>. In addition the City of Skopje established which on which places events may be organized and which municipality within the city is responsible for issuing the permit <http://skopje.gov.mk/images/Image/Lokacii%20na%20teritorijata%20na%20grad%20Skopje.pdf.pdf>

IV. ADMINISTRATION OF FREEDOM OF ASSEMBLY



As previously noted, the LPA includes an option to provide notification in advance of a planned assembly. The notification should be submitted in the regional unit of the MOI, no later than 48 hours before the expected start of the assembly. However, the letter of intent requires from organizers to state the organizer, purpose of the assembly as well as state the measures undertaken to ensure unobstructed organizing and course of the assembly.⁴⁷ There is no information available online on how to announce a public assembly, nor is there a draft paper on a letter of intent to organize a public assembly. Having in mind that the vast majority of assemblies are unannounced beforehand, we see two reasons for this. First, as above mentioned, the LPA has strict rules when it comes to announced assemblies. When an assembly is announced, the responsibility for safekeeping the public places and the safety of the participants is in the hands of the organizers. In accordance to the law, the organizers should organize a voluntary warden service in order to cope with the members of the assembly. However, according to Article 4, another possibility for organizers is to inform the police that they

should resume the responsibility for the organization and safekeeping of the assembly. But, in that case, the organizers have the obligation to remunerate the operative cost for the police.⁴⁸ There are heavy penalties and fines if the organizers do not organize the participants in the assembly, which brings the burden of safekeeping to the organizers. The second reason for the low announcement rate of assemblies is the general lack of information about the administrative procedures of the local police unit. Having in mind that there is no draft letter of intent or a proceedings manual available online, means that many first time organizers would have to visit the local police unit multiple times in order to gather all the necessary information in order to provide the proper documentation.

There are no powers to authorities to ban assemblies, notified or not. However, according to article 2-a of the LPA, assemblies cannot be held next to hospitals in the way that it would hinder people from entering the hospitals, kindergartens while children are still inside and on highways or main roads that

⁴⁷ Article 3 of Law on Public Assemblies ("Official Gazette of the Republic of Macedonia" nos. 55/1995, 19/2006, 66/2007 and 152/2015)

⁴⁸ Article 4 of Law on Public Assemblies ("Official Gazette of the Republic of Macedonia" nos. 55/1995, 19/2006, 66/2007 and 152/2015)



would endanger the road traffic.⁴⁹ According to the LPA, there are two responsible parties for an interruption of an assembly, namely the organizers and the police. According to the LPA article 4, the organizer has to stop an assembly if the lives and the health of individuals are in danger, if the security and the personal safety and the safety of property are in jeopardy.⁵⁰ Police force according to Article 5, have the same credentials to stop an assembly, with two additions: that they might stop an assembly if the assembly poses a threat to the environment, or if the assembly is performing or encouraging the perpetration of criminal offenses established by law.⁵¹

There are no articles or internal documents that regulate if and how authorities are required to meet with assembly organizers. However, the police meets with the organizers before the start of an assembly. In cases where an assembly is not announced, the police is trying to target and find organizers among the participants.⁵² Yet, most of the non-announced assemblies do not formally have one organizer, having in mind the heavy fines for organizers if an assembly brakes any criminal codes.

When it comes to the accountability of the administration, specifically the work of the police, there are few mechanisms in place. The first institution that guarantees the accountability when it comes to the police

49 Article 2-a of Law on Public Assemblies ("Official Gazette of the Republic of Macedonia" nos. 55/1995, 19/2006, 66/2007 and 152/2015)

50 Article 4 of Law on Public Assemblies ("Official Gazette of the Republic of Macedonia" nos. 55/1995, 19/2006, 66/2007 and 152/2015)

51 Article 5 of Law on Public Assemblies ("Official Gazette of the Republic of Macedonia" nos. 55/1995, 19/2006, 66/2007 and 152/2015)

52 Interview with representatives of the police force from Skopje

forces is the Department for Internal Control, Criminal Investigation and Professional Standards (ICCIP).⁵³ During the reporting period for the year 2017, the ICCIP investigate two cases in relation to public assemblies. The first one was regarding the violent assembly of 27th April 2017, when the assembly organized by "For a common/shared Macedonia" turned violent and entered the Parliament building of Macedonia, injuring journalists and members of Parliament. Here, the ICCIP investigated the police actions in two ways. Firstly, the ICCIP investigated the involvement of police in not stopping the violent assembly and allowing violent participants to enter the Parliament building. Forty-one members of the police force are awaiting a decision for disciplinary fines for breaching the police rules. Furthermore, the ICCIP has investigated three reports from citizens that participated in the assembly that reported excessive use of force. However, the ICCIP has concluded that the police forces used the necessary force according to the Law for Police. The other event reported in the yearly report that relates to public assemblies, namely the assembly of the political party Levica^{54,55}. The ICCIP has noted that during that assembly, although following the FOA the assembly did not meet the requirement of at least 20 people, four police officers breached the Code of Conduct of Police and the Law on Police by handcuffing and preventing the participants to leave the scene. More specifically, the police officers

53 Ministry for Interior, department for Internal Control, Criminal Investigation and Professional Standards, <http://www.mvr.gov.mk/page/sektor-za-vnatreshna-kontrola>

54 This case can be read in the section of case studies

55 "Four activists of Levica were detained for a protest" TV Nova July 30th 2017

breached articles 83 and 85⁵⁶ of the Law on Police and have faced disciplinary fines by the ICCIP.⁵⁷

Another mechanism for accountability of the police is the office of the Ombudsperson. With the changes in the Law for the Ombudsperson Office in 2016, the Ombudsperson can directly open an investigation against law enforcement officers. This right has been used five times in 2017, one of which was associated with the case of the assembly of Levica. The case against the law enforcement officers has reached the Public Prosecution Office and the case is still open until the writing of this report.⁵⁸

A rather recent form of accountability of the law enforcement agency in the legal framework is the department within the Public Prosecution Office that will only oversee crimes or human rights violations on part of members of the police force.⁵⁹ Additionally, these cases will be presented before a specialized court that has been formed during the last months before the creation of this report. However, as previously noted, it is too early to comment on the functionality of both of these bodies. Yet, these bodies are part of a system of oversight of police actions and can play a vital part on the long run regarding cases of interrupted assemblies and the involvement of law enforcement agents using excessive violence.

56 Article 83 regulates the use of force by police, article 85 regulates how and when handcuffs are used

57 Yearly report for the year 2017, Internal Control, Criminal Investigation and Professional Standards (ICCIP) inside of the MOI

58 Yearly report 2017, Ombudsman office report, <http://ombudsman.mk/upload/Godisni%20izvestai/GI-2017/GI-2017.pdf>

59 Passed amendments on the law for public prosecution, on the 35th session of parliament <http://sobranie.mk/materialdetails.nspx?materialId=336b1882-dba9-4840-a9aa-4036d42168c5>

Prior to these new mechanisms, there was one case in 2016 where young people protesting inside of the student parliament building were violently taken out of the building. These young people then pressed charges against the police for preventing the right to a peaceful assembly. However, these charges were rejected on the November 3th, 2018 by the Public Prosecution, on the grounds that police intervened in a situation where the public order had been disrupted and people were in danger. On the other hand, these new types of mechanisms enable overseeing the work of the police. The criminal cases against participants of violent assemblies are still regulated and managed through the standard institutional methods by the Public Prosecution Office and the courts.

The vast majority out of four interviews noted that the most responsible authorities for the right for FOA are the police, the Public Prosecution Office and the Ombudsperson. However, during our interview with representatives from the law enforcement, they noted that they also work together with the ICCIP, who monitor every assembly together with them. They monitor the decisions made by the police officers and follow the happenings on the ground.⁶⁰ However, on another note, during an interview with a Member of Parliament it was concluded that *"The cooperation between police forces and public prosecutors has to be on a higher level. First and foremost because these two institutions have to work together when violence is happening on public assemblies. But secondly, because the public prosecution has an important role in the oversight of policing during assemblies."* This also indicates that

60 Interview with a representative from the police station Skopje

public prosecutors should be part of the ground team during assemblies, assessing the situations and accelerate the building of cases against violent members of assemblies.

Another important resource of data collection when it comes to the right of freedom of assembly are the public accessible data. During the reporting period, there was no public accessible data on the number of assemblies that took place. Civil society organizations have to use the Freedom of Information Act to get this information. However, even when shared, this information does not contain the reasons for stopping an assembly, nor there is a systematic division of types of assemblies. Having that in mind, one of the key elements for improvement is the transparency of the law enforcement agency regarding the available data. Furthermore, there is a need for a continuous gathering of specific data on the types of assemblies. This could be done quite easily with a special report by police officers on the ground after the finishing of the assembly.

All in all, from the information gathered, we can conclude that the biggest challenge remains the broad legal framework in which the law enforcement is expected to function. This is reflected in a way that most of the times the police are taking actions based on their own assumptions, rather on the legal stability and clear mandate given by the specific laws. Additionally, the communication between institutions has to improve in order to provide fast clarifications on whether the police took appropriate actions, or whether disciplinary actions against police have to be taken. Furthermore, the Public Prosecution Office has to build cases against violent protesters faster and more easily, which

would be a result of improved communication with the representatives of law enforcement. Keeping in mind that one of the oversight mechanisms for accountability are completely new in the legislation framework, we have to further monitor their activities and further on conclude if these mechanisms are functioning.





V. POLICING OF ASSEMBLIES

Table 1 shows the number of assemblies per year. Assemblies have been on the rise during the past few years. The peak has been reached the past year of 2017, with 2016 specific assemblies happening during the whole year. The assembly per day rate indicates 5.5 assemblies happening every day in 2017. The MOI takes into account all of the assemblies, it does not matter if they are formally announced beforehand or not. However, as previously noted, MOI does not have specific data on the types of assemblies. Having that in mind, these figures include public manifestations such as public concerts, public events that might be of cultural value or other types of specific manifestations in the region. The data is only available on the level of statistical regions and specific cities or municipalities are not listed.⁶¹

The police stations and the MOI, according to the Law on police cannot specifically ban an assembly. In practice we have not found an assembly that has been banned beforehand. Organizers do not have to notify the police in advance for an assembly, but if they decide to do so, the procedure is as explained previously in the part "Administration of assemblies". However, police have a right to interrupt and

use force to stop an assembly in specific cases which are regulated in article 5 if the criteria to do so are met.⁶² However, there is no procedure in which it is stated that if the police decide to forcefully disperse an assembly that there should be medicare or ambulances nearby. Yet, police officers are required by the Law on Police to provide help and medical assistance to a person that has been injured during the use of force.⁶³

When it comes to the main responsibilities and the organizational structure of police facilitation of assemblies, there are certain levels of hierarchy. The Bureau for Public Security (BPS), as a body within the MOI, is responsible for conducting all police affairs and coordinates the police force. Under the BPS, there are regional Departments for Internal Affairs responsible for planning and policing public assemblies on the territory under their jurisdiction. The Unit for Public Assemblies and Sports Events, as well as the Rapid Deployment Unit are also often used during public assemblies, depending on the operational information of the BPS gathered

⁶¹ Wikipedia, Statistical regions of Macedonia https://en.wikipedia.org/wiki/Statistical_regions_of_Macedonia

⁶² Article 5 of Law on Public Assemblies ("Official Gazette of the Republic of Macedonia" nos. 55/1995, 19/2006, 66/2007 and 152/2015)

⁶³ Article 80, Law on Police

		PUBLIC GATHERINGS AND ASSEMBLIES	BANNED PUBLIC GATHERINGS AND ASSEMBLIES	POSTPONED PUBLIC GATHERINGS AND ASSEMBLIES	STOPPED PUBLIC GATHERINGS AND ASSEMBLIES	PUBLIC GATHERINGS AND ASSEMBLIES THAT HAVE BEEN REMOVED OR RELOCATED
SKOPIJE	2014	239	-	8	-	-
	2015	159	-	-	-	-
	2016	265	-	5	1	-
	2017	308	-	28	1	-
	2018	19	-	4	-	-
BITOLA	2014	301	-	7	-	-
	2015	281	-	4	-	-
	2016	167	-	5	-	3
	2017	79	-	3	-	2
	2018	53	-	2	-	1
VELES	2014	60	-	-	-	-
	2015	51	-	-	-	-
	2016	75	-	1	-	-
	2017	65	-	1	-	-
	2018	25	-	1	-	-
KUMANOVO	2014	35	-	5	-	-
	2015	34	-	-	-	-
	2016	143	-	-	1	-
	2017	187	-	-	1	-
	2018	66	-	2	-	-

		PUBLIC GATHERINGS AND ASSEMBLIES	BANNED PUBLIC GATHERINGS AND ASSEMBLIES	POSTPONED PUBLIC GATHERINGS AND ASSEMBLIES	STOPPED PUBLIC GATHERINGS AND ASSEMBLIES	PUBLIC GATHERINGS AND ASSEMBLIES THAT HAVE BEEN REMOVED OR RELOCATED
OHRID	2014	59	-	-	-	-
	2015	61	-	-	-	-
	2016	94	-	1	-	-
	2017	159	-	-	-	-
	2018	24	-	-	-	-
STRUMICA	2014	25	-	-	-	-
	2015	26	-	-	-	-
	2016	149	-	-	-	-
	2017	257	-	-	-	-
	2018	14	-	-	-	-
TETOVO	2014	206	-	-	-	-
	2015	138	-	2	-	-
	2016	242	-	2	-	-
	2017	202	-	3	-	-
	2018	144	-	1	-	-
STIP	2014	35	-	5	-	-
	2015	34	-	-	-	-
	2016	560	-	14	1	-
	2017	759	-	11	1	-
	2018	238	-	5	-	-

through social media, media reports or other information gained.⁶⁴ Furthermore, the police in certain cases forms a special command line which include a golden commander, usually in the headquarters in the Ministry or police station, silver commanders typically on the ground and bronze commanders that are part of the different units on the ground. However, this type of command chain requires to put professionals from the law enforcement rather than politically elected officials in the chain of command. This has been especially noticeable in the case of the violent assembly in the events of 27th of April 2017 and inertness by police. In that case, the golden command, which was in charge of the facilitation of the assembly was an elected official, rather than a professional from the MOI sectors.⁶⁵

The international standards suggest that the state has a positive duty to take reasonable and appropriate measures to enable peaceful assemblies to take place without participants fearing physical violence.⁶⁶ However, in the case of our country, as previously noted, the responsibility for facilitation is mostly in the hands of organizers. If the assembly doesn't have organizers, the police usually leaves the assembly to self-organize and facilitate. Police usually step in and stop assemblies only when sections of article 5 of the Law of police are breached or activated. However, this article is broad and allows police to decide if a certain

64 Interview with police representatives from the police station Skopje.

65 Chavkov (golden commander) started to react only after 20:00 hours, MKD.mk <https://www.mkd.mk/makedonija/politika/nuhiu-na-rochishteto-za-27-april-chavkov-pochna-da-reagira-kako-shto-treba-duri>

66 *Plattform 'Ärzte für das Leben' v. Austria* (1988), para.32. as cited by OSCE/ODIHR and Venice Commission (2010) Guidelines on Freedom of Peaceful Assembly, Second edition, p. 75

situation is breaching the specific article.⁶⁷

In practice, the police are trying to be present and facilitate peaceful assemblies, even when the assemblies are not previously announced. Counter protests have not been frequent in the reporting period of 2017, however, police are trying to hinder two separate assemblies to collide and create a buffer zone.⁶⁸ Peaceful assemblies that block roads and traffic are usually well facilitated by police. This can be also concluded from the interviews with organizers of assemblies, specifically the initiative "NaTocak" that works under the principle of the globally popular Critical Mass system.⁶⁹

Usually, police are engaging in forms of dialogue and communication with organizers before the assembly. However, representatives of the police force highlighted the problem of communication with representatives from non-announced assemblies. In many cases, organizers of non-announced assemblies do not want to take up the responsibility of the role of organizers, especially because of the heavy fines if something goes wrong during the assembly. Communication during the assembly is common, however, not an essential part of facilitation of assemblies and mostly happens in the cases of changing routes. After the assembly there is usually no communication between police and organizers.⁷⁰

Communication is the most common issue

67 Monitoring of assemblies during the reporting period

68 Monitoring of assemblies during the reporting period

69 What is a critical mass? "Time's up" NYC's Direct Action Environment Organization, <https://times-up.org/critical-mass/what-critical-mass>

70 Interviews with organizers of non-announced assemblies and interview with representative of the police station Skopje

posing a challenge to the law enforcement when policing an assembly. During the interview with a police representative, he concluded *"The announced assemblies are not such a problem. When we know a name, people who are organizing the assembly, we can find them and have an open talk. However, the real problem occurs when there are no official organizers. Then we have to operatively figure out who is in charge and we are more on the back foot and cautious because we don't know these people and have to figure out everything on the spot"*. On another note, having in mind the broad legislative framework in which police are operating, one other concern is the level of meritocracy of law enforcement agents depending on the type of assembly in front of them.

Police enforcement agents receive specific training on assembly control and specific use of the special equipment and weapons that police might use in certain situations at assemblies. Special equipment or weapons for assemblies are regulated in the Law on Police in article 91. The equipment includes: physical force, police baton, chemical sprays, police dogs, special vehicles (water cannons and other armored vehicles) and pyrotechnic device to disperse a crowd. Before using this equipment, police officers might give an order to the crowd to disperse.⁷¹ However, the main concern here is the word "might". If a police office might give an order, it does not mean that he must give an order before using the equipment for dispersing of crowds. In general, the international standards are followed with this equipment. During high risk assemblies, what usually happens is that the

71 Article 91. Law on Police.

special vehicles and special units that use this equipment are stationed near an assembly.⁷² The special units that use this equipment are specially trained on usage of these materials, which are monitored and supported in some cases by the OSCE or other foreign donors or international organizations.⁷³ However, two of the interviewed independent Members of Parliament concluded that there is a need for better training in conflict resolution and communication between police officers on the scene and the members of an assembly. One of the Members of Parliament noted *"There is a evident need for training of police officers on how to calm down crowds by communication and lowering the aggressive tone. But this is something the MOI has to do internally"*⁷⁴

In facilitating assemblies, police can use audio and video surveillance. Article 93-a of the Law on Police is regulating this aspect of the facilitation of assemblies. Police might use these types of surveillance in order to build cases against violent protestors, if the operational team concludes that there is a need for this. The collected material is kept 45 days from the day they were collected.⁷⁵ During the conducted interviews we received mixed view points on the need for these types of surveillance. Usually police is using own hand-held cameras or cameras from public institutions for such surveillance operations. Although most interviewees from the state institutions conclude that there is a need for video surveillance in order to bring the individual violent protestors to justice, one

72 Monitoring of assemblies

73 Interview with police representative from the Skopje police station and one independent member of parliament

74 Interview with one independent member of parliament

75 Article 93-a. Law on Police.

of the independent Members of Parliament noted *“I understand the video surveillance part, and it is good that we have shortened the period of storage of such materials from 6 months to 45 days. However, when it comes to audio it is a little bit trickier. Under operative orders police could technically record and listen to any talk between members of an assembly and keep those materials for 45 days. That is worrisome, especially keeping in mind the leakage of such materials (wiretapping scandal in Macedonia in 2015) in previous years”*. Having this in mind, it is important to have an independent oversight mechanism, in Parliament and in the Public Prosecution Office to monitor the usage of such devices. Both are currently in place. Another important aspect is that the police is also allowing members of assemblies to film police and take pictures.

On another note when it comes to facilitation of assemblies, there have been allegations in the past that undercover police infiltrate assemblies, but we were unable to independently verify these claims.

Another important aspect of facilitation of assemblies is the media freedom to report from assemblies. During the period between 2016 and 2017 we have also noted an increase of violence against journalists. There have been twelve occasions where journalists and media representatives have been injured during reporting of assemblies.⁷⁶ The reports of journalist are on a wide range between injuries towards individual journalists to damaging of media reporting equipment. This shows a deteriorating environment for media to freely and safely report from assemblies.

⁷⁶ Association of Journalists of Macedonia, Report of violence against reporters 2014-2018.

Keeping in mind the Law on Public Assemblies, the organizers are the ones to ensure safety during the public assembly. However, there is a legal gap when an assembly is done without the previous reporting to the local police station and there is no obvious organizer on sight. The legal gap here does not specify who is responsible for the safekeeping of the assembly. During the research period, we conducted interviews with stakeholders, one of whom are representatives from the law enforcement. Regarding the question of safety of journalist's, the law enforcement officer answered: *“Although we are obliged to follow the rules, the problem occurs when non-registered assemblies take place and no organizer wants to take the responsibility. Here we have a problem, firstly because we have nobody to talk to from the group and engage in contact, secondly because there is no article regulating what happens if there are no organizers, when it comes to safety during the assembly, as it is a clearly regulated that the organizers are the ones responsible. It is possible that when journalists come to close to the scene of action and we try to disperse a crowd that they come to close and we don't see their press legitimation. However, during the past year, most of the trouble came from members of assemblies targeting specific journalists and injuring them. We try to give journalists and monitors the needed room to observe, however that is sometimes impossible”*. This also indicates a need for a stricter framework on policing of assemblies and better communication between police and members of the assembly, specifically organizers. Another aspect are the rigorous fines for organizers if an assembly does any criminal act or violation of the criminal code

of the country. This discourages organizers to formally announce assemblies and to fully use their right to freedom of assembly. Thirdly, police have to take into account the vulnerable situation in which media is reporting from assemblies, especially political protests. Measures for extra protection have to be in place so media can safely report from assemblies.

Most usually, social media is used before, during and after assemblies. The primary reason for social media use is to organize and mobilize protesters, but also increasingly more frequently to provide immediate citizen reporting from protests through updates, photos and videos, especially in cases of police brutality. Facebook and Twitter are the most commonly used social media platforms. In general, there are no restrictions on the use of social media in relation to assemblies. In the past there have been instances where protestors claim that Facebook events disappeared, or that mobile network coverage has been suspended in the area where a protest is taking place in order to prevent protesters from accessing social media, but these claims cannot be independently verified.

VI. CRIMINALIZATION OF PROTESTS

During our previous reporting on the right of freedom of assembly, we concluded that *"The criminalization of the protest is seen as one of the major obstacles in the organization of and participation in public assemblies."*⁷⁷ The situation regarding the criminalization of protests has not changed during the years, with no changes to the Criminal Code, or changes to the FOA law. The HRC stresses that *"[n]o one may be subject to arbitrary arrest or detention. In the context of assemblies this has particular impact for the criminalization of assemblies and dissent."*⁷⁸ However, in the case of Macedonia this seems to be the opposite. Police can detain any participant that is part of an assembly that committed a crime, under the basis for criminal charges "participating in a crowd that prevents an official in performing an official duty"⁷⁹ and "participation in a crowd that commits a crime."⁸⁰ The European Union

⁷⁷"Freedom of assembly in Macedonia", Reactor – Research in Action and European Centre for Non-Profit Law, http://reactor.org.mk/CMS/Files/Publications/Documents/Macedonia_WBA%20Project%20Report.pdf

⁷⁸ UN Human Rights Council, *Joint report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur on extrajudicial, summary or arbitrary executions on the proper management of assemblies*, 4 February 2016, A/HRC/31/66, available at: <http://www.refworld.org/docid/575135464.html>

⁷⁹ Article 384, Criminal Code

⁸⁰ Article 385, Criminal Code

progress report for Macedonia in 2018 noted *"...a serious legal shortcoming remains as the Criminal Code offence of 'participating in a crowd which commits a crime' is still applicable without safeguards."*⁸¹ Another important aspect is that a protester can be detained for 12 hours, until the public prosecution can evaluate the evidence against them.⁸² One of the major concerns regarding the criminalization of protests is putting the collective responsibility of members of an assembly, rather than targeting the individual responsibility of violent protesters. Police can arbitrary arrest anybody from the assembly, if there has been a crime committed during the assembly. The most common offences that protesters are charged with are violence, disorder and rioting. These charges are criminally charged cases and the usual conduct of the prosecution office is to request further detention for the accused until the court can reach a verdict. The common practice suggests that in almost all cases, the court accepts the prolonged detention on the ground out of fear that the accused might repeat the criminal act. These cases are dealt with by the criminal courts in the country.

⁸¹ Key findings of the 2018 Report on the former Yugoslav Republic of Macedonia, European Commission http://europa.eu/rapid/press-release_MEMO-18-3405_en.htm

⁸² Article 46-b Law on Police



The second type of charges are misdemeanor charges for disturbance of the peace and order, which are dealt with by administrative courts in the country.

In general, the court cases in the criminal court procedures are rather slow. We can take as an example the criminal cases against three members of a violent assembly that happened two and half years ago.⁸³ The same applies for administrative courts in which for the same events as the previously noted case, eleven participants were charged with misdemeanour charges that arrived two and a half years after the assembly.⁸⁴ We could not find any cases where the protesters have been found innocent or acquitted of the charges, during the reporting period for 2017, nor previously. During the research period, we asked our interviewees if they think that prolonged detention, whether in house arrest or prison, influences the legal defence of arrested protesters. We received different information, on the one side, the detention might help protestors for a lighter sentence. On the other hand, there has been a trend of admitting guilt before the case could reach a verdict for a lighter sentence. Sentences can be appealed in both cases to higher courts, on grounds for lowering the final sentences or violations during the investigation. However, we could not find cases in which the higher courts lowered the sentence or brought back the trial to the basic courts.

There is a general distrust for the judicial system

83 Postponed hearings for Mariglen Demiri from “Left”, MKD.MK <https://www.mkd.mk/makedonija/partii/odlozheni-rochishteto-za-mariglen-demiri-od-levica>. The case has been prolonging for over two and a half years, on different excuses from the public prosecution.

84 Interview with one of the detained protestors and accessed data to the invitation to court

in the country. Only 23% of the population reported that they have faith in the judicial system, and 70% of them reported that they don’t have trust.⁸⁵ This shows a big distrust towards the complete system that should be the judge of different criminal violations. One of the reasons for the distrust could lie in the fact that the accountability of courts is quite slim. Civil society organizations do monitor the work of courts, however, these monitoring reports have seldom a real impact on the accountability of courts. Judges are reviewed by their peers using an internal points system which is then reviewed by the panels of judges in every court. According to the generated points, it is decided if a judge is promoted or given a lower rank.

All in all, the criminalization of the protests is seen as one of the major obstacles in the organization of and participation in public assemblies. Criminal charges are brought against protesters and the courts too often determine pretrial detention. Due to political influences a selective administration of justice is attributed to the criminal justice system. All of this in totality is perceived as a measure to intimidate the protestors and to discourage protests. However, recently there seems to be a reversal in how protesters and citizens respond to these intimidations, increasing the motivation of the protesters.⁸⁶⁸⁷

85 Public opinion in the European Union, European Commission, http://meta.mk/wp-content/uploads/2017/09/eb87_annex_en.pdf

86 Freedom of assembly in Macedonia”, Reactor – Research in Action and European Centre for Non-Profit Law, http://reactor.org.mk/CMS/Files/Publications/Documents/Macedonia_WBA%20Project%20Report.pdf

87 Interviews with organizers of assemblies and state institutions.

CASE STUDIES

The analysis identified the most acute and significant assemblies, as well as the key challenges organizers face when exercising the right to freedom of assembly. From our research we can conclude that there are three main purposes of assemblies in the reporting period – assemblies against the formation of a new government, assemblies against the decision of the President of the Republic of Macedonia for the abolition of criminal investigation against politicians and assemblies that are against specific policies or on-going court trials. The first can be defined as formal groups and non-governmental organizations that organized themselves in early 2017 against the formation of the new government. Most of their assemblies around the cities in Macedonia were registered assemblies. The second group can be defined as formal groups, non-governmental organizations and individuals from non-governmental sector and parts of the political opposition at that time, that organized assemblies all across Macedonia in order to protest the decision of the President of the country to abolish the criminal investigations against politicians. Their assemblies were mainly been organized through social media, were not previously announced to the police and remained peaceful with one major incident that resulted with the demolition of the office of the President in the city center. The third group of assemblies are spontaneous assemblies that protest different varieties of policies or decisions by the government. Examples are green activists that have protested the opening of mines in the eastern part of the country, or workers from companies that have shut down their

operations.

Policing as a key aspect of the free exercise of freedom of assembly and excessive obligations for organizers and legal insecurity as an obstacle in exercising FOA

“There is no pressure on anti-government assemblies anymore. However, there is a clear lack of communication between police and members of assemblies. This would help in the long run to prevent assemblies from becoming violent” (interviewed MP from the governing party member of Parliament, October 2018)

Throughout 2016, public assemblies on the streets in many cities across Macedonia became a common sight. In the spring of 2016, the so-called “Colourful Revolution”⁸⁸ organized daily protests until the end of May. The assemblies were not previously announced to police; however, the routes of the assembly were known as most assemblies were organized via social media. During the first days of the assembly, the police did not allow for members of the assembly to protest in front of the offices of the ruling party. On the 13th of April a group of people from the assembly violently demolished the citizen’s office of the President of Macedonia. During the operation to disperse the assembly, 13 people were arrested on the spot (one of whom was injured during the arrest) and 10 people were injured, including two journalists.⁸⁹ Most of the arrested were later released on

88 The colorful revolution takes its name from the activities done during the assemblies. For instance, during the daily assemblies, participants would throw paint balloons on to different buildings that are being used by government officials. The protests started after the President of Macedonia gave an abolition to all politicians who are being investigated by the Special Prosecution Office in April 2016.

89 Civil Media, “Week of protests in Macedonia” <https://www.civil.org.mk/ndla-na-protsti-vo-makdonia/?lang=mk>

misdemeanour charges on the grounds of disturbance of public order and peace. The misdemeanour charges arrived two years after the assembly.⁹⁰ Three persons have been later identified and criminal cases for “participation in a crowd that committed a crime”. However, even after two years, these cases have no legal ending and the court hearings are being delayed.⁹¹ These events show the need for a clear communications between participants of assemblies, especially when a violent group can be targeted. Contrary to that, the police forces did not target the violent participants of the assembly, but acted in the sense of arresting people that were not part of the violence. Additionally, this case shows that the legal framework as such, is criminalizing the whole assembly instead of having an individualistic approach when it comes to dispersing an assembly and specific criminal acts that might occur during an assembly.

Another event that can be noted is the incident on the assembly on the 27th of April 2017. On April 27th 2017, the political party that came in second place in the parliamentary election held in December 2016 – the Social Democratic Union of Macedonia (SDSM) – provided a document with the signatures of 67 MPs (constituting a majority in Parliament) from their coalition and with three majority Albanian parties, as a guarantee that they would be able to obtain a majority in Parliament and thus seek the mandate from the president of Republic of Macedonia to form a government coalition. On the same day, the newly created

90 Interview with one of the detained protestors and media reports
91 Postponed hearings for Mariglen Demiri from “Left”, MKD. MK <https://www.mkd.mk/makedonija/partii/odlozhenorochishteto-za-mariglen-demiri-od-levica>

initiative called “For a Shared/Common Macedonia” started their daily protests against what they dubbed the “Albanian platform”. The daily protests in front of the Parliament building continued daily and were peaceful in conduct, despite xenophobic and Albano-phobic chants, slurs and even sporadic calls for violence should the new majority elect a new president of Parliament. The protests escalated on April 27th after the MPs voted in a new president of Parliament, ending months of political deadlock following the national elections and clearing the way for a new government to be formed.⁹² Once the news made it to the protesters outside, the angered crowd managed to pass the police cordon and soon managed to enter the Parliament building. Once inside, the crowd now turning into an angry mob, attacked the MPs of the new majority while they were holding a press conference inside the Parliament’s press room. After hours of police standing by as the standoff between MPs and protesters went on, they finally received orders to disperse the crowd. Around 70 citizens, including media and MPs (of which one with life-threatening injuries) and 20 police officers were injured during the outbreak of violence.⁹³

Following these events, the Helsinki Committee for Human Rights of the Republic of Macedonia issued a report with all of the criminal acts that can be identified from the multiple audio and video materials. The report

92 “For a common Macedonia with gas chambers?!” Civil Media 28th of February 2017, <http://civilmedia.mk/zadnitchka-makdonia-so-gasni-komori/>
93 “More than 70 injured as protesters storm Macedonia’s parliament and attack politicians and police”, The Telegraph April 28th 2017, <http://www.telegraph.co.uk/news/2017/04/27/protesters-storm-macedonia-parliament-social-democratic-leader/>

identified that 27 different criminal cases can be brought against the protesters that where part of the demonstrations, 17 of which are already provable with considerable evidence and 10 suspected crimes. Additionally, the possible perpetrators can be divided into four groups, 1) organizers, 2) perpetrators, 3) police officers and 4) their superiors.⁹⁴ Additionally, the TV show CODE (in Macedonian *Kod*) recreated the events that happened on April 27th in a three-part TV documentary, focusing on the failure on part of the police to prevent the protesters from entering the Parliament building. It concluded that the internal police protocol for mass protests was not respected, that the number of police force and riot police present at the protest was far too little compared to practices that the police has when it comes to other protests, and that the chain of command was not in place, noting that as the chief police commander of the task force for these protests was absent from work and ignored phone calls, resulting in the delayed reaction from the police. Additionally, it was noticed that off duty police officers and army officials in normal clothing participated in the mob that entered the Parliament.⁹⁵ Immediately following these events, the Public Prosecutor’s Office issued interrogation orders for 15 protesters, including two of the three

94 “Special report on identified and possible crimes committed during the violent attack on the Assembly on 27 april 2017” Helsinki Committee For Human Rights of The Republic od Macedonia May 05th 2017, <http://www.mhc.org.mk/analysis/578?locale=en#.WeM-N1uCyM9>
95 “Incidence in parliament and accountability pt1, pt2 and pt3”, Telma TV, KOD show, May 14th 2017, <https://www.youtube.com/watch?v=59Q4ehr7Q1E>

main organizers of the protests.⁹⁶ Later on, the public prosecution presented the case against 30 alleged organizers of the violent assembly, including four members of parliament from the opposition and two members of the secret police as co-conspirators. All but the two members of the secret police are being charged with “terrorism against the Macedonian state and constitution”.⁹⁷ However, there are other people charged for acts of violence and attempted murder of MPs.^{98 99} This event shows a concrete concern about the way police are conducting the law enforcement work of assemblies, firstly because of the involvement of active police force members in criminal actions during the assembly and secondly because of the slow approach to disperse a violent crowd trying to enter a viable political institution.

Another country specific assembly is the case of the assembly of the political party “Levica”. On July 29th 2017, a small group of less than 20 people (less than the mandatory number of participants according to the law on freedom of assembly) from the political party Levica

96 “The public prosecution office asked the ministry of interior to arrest 15 protesters from the events in the parliament” Sakam da kazam April 29th 2017, <https://sdk.mk/index.php/makedonija/obvinitelstvoto-pobara-od-mvr-da-uapsi-15-nasilnitsi-od-napadot-vo-sobraniето/>
97 27th of April – 30 people ineditd for terrorism, Alsat - TV <https://www.alsat-m.tv/mk/27-%d0%b0%d0%bf%d1%80%d0%b8%d0%bb-%d0%be%0%b1%d0%b2%d0%b8%d0%bd%d0%b5%d0%bd%d0%b8%d1%98%d0%b0-%d0%bf%d1%80%d0%be%d1%82%d0%b8%d0%b2-30-%d0%bb%d0%b8%d1%86%d0%b0-%d0%b7%d0%b0-%d1%82/>
98 First jail sentence for the attacker of Shekerinska, he got 4 years” Sakam da kazam October 12th 2017, <https://smart.sdk.mk/vesti/prva-zatvorska-kazna-za-27-april-kubachot-na-shekerinska-dobi-4-godini/>
99 The attackers of Zijadin Sela got 30 days in detention for the attempted murder of the MP” MKD.mk May 11th 2017, <https://www.mkd.mk/makedonija/politika/napagjachite-na-sela-dobija-po-30-dena-pritvor-sprovedeni-se-vo-shutka>

protested the public display of the joint army session of the Macedonian and US Army on the main public square in Skopje. The protesters held a banner that read “Against the Wars for Profit”, which the police asked to be taken down. When the protesters did not comply with the police officers’ demands, four of the protesters were handcuffed and held for 15 minutes.¹⁰⁰ Following these actions, the Minister of interior announced that the Internal control of the Ministry will follow up with an investigation for the police officers who used force and detained the activists. The investigation concluded that 4 police officers used force, illegally detained the activists and had no order from a superior to conduct these actions. This resulted in a disciplinary action against the police officers.¹⁰¹ While the sanctioning of police conduct is a positive development, and perhaps indicative of an important shift in how police deal with protesters under the new government, it is nevertheless worth noting that the initial response to the police misconduct was that these protesters do not enjoy protection under freedom of assembly legislation as they failed to meet the minimum threshold of 20 people to be considered a protest.

POSITIVE ASPECTS?

During the review of the assemblies, we noted one particular group of bicycle enthusiasts called “NaTochak (OnBikes)”. The initiative organizes assemblies once at the end of each month, that take place in the city of Skopje, in

order to raise awareness about the need for better bicycle infrastructure and more respect from car drivers towards bicycle drivers. Their initiative is based on the global action called Critical Mass.¹⁰² Their assemblies are done on bikes on different routes through the city, depending on the thematic of their current assembly. They do not announce their assemblies to the police, however they do engage in contact with the police on their meeting point. The main reason for this is that they want to raise genuine awareness without the help of the police in the road blocking procedure and to be visible, not facilitated through traffic. According to their own views, the cooperation with the police has been in accordance. The law enforcement officers are cooperative and understand their reasoning behind the non-registry of their assemblies.¹⁰³ This shows a rather proactive side of the legal framework and self-facilitation of assemblies in the country. However, their cause is rather non-politicized in media. This allows them to be indifferent to the different problems and aspects they might have in organizing non-announced or announced assemblies, problems such as a possible violent group infiltrating the assembly and causing harm to others and the police.

¹⁰⁰ “Four activists of Levica were detained for a protest” TV Nova July 30th 2017,

¹⁰¹ “Disciplinary actions against the officers that detained activists from Levica” Nova Makedonija August 1th 2017, <https://goo.gl/WpV5ve>

¹⁰² What is a critical mass? “Time’s up” NYC’s Direct Action Environment Organization, <https://times-up.org/critical-mass/what-critical-mass>

¹⁰³ Interview with one of the organizers of assemblies





VII. RECOMMENDATIONS

Legal framework:

- Monitor the of the new oversight mechanisms for accountability of police and further develop mechanisms for the full implementation of the legal framework
- Minimize the burdens given to organizers of assemblies in the Law on Public assemblies. This is especially necessary in the field of administration of assemblies. The police should have the responsibility for administrating all assemblies.
- Changing the current penalty code into more individualization of criminal acts for participants, instead of the current situation
- Deleting of the required minimum for an assembly. The current situation, where an assembly is only recognized as such if 20 people are at the premises, is a clear violation of citizens' rights to fully exercise their right to freely assemble.
- Clearer and stricter competencies for police intervention in assemblies.

Administration of assemblies:

- Availability of data regarding public assemblies should be made public, together with field reports on how the assemblies were managed, if there have

been any cases of violence, types and routes of assemblies.

- Information on registering a public assembly should be made publicly available on the internet, together with the needed forms for announcing an assembly. Additionally, a change in the forms is needed, lowering the criteria to only name of organizers, venue and time of the assembly.

Policing of assemblies:

- Fees in cases in which organizers want the police to manager their assembly should be abolished.
- Clearer boundaries for when police can interfere with an assembly.
- Lowering the days of storage of video and audio materials in police headquarters and stricter guidelines.
- Additional training for police managing assemblies, especially in the field of communication and special training on managing assemblies.

ANNEX - PROTESTS IN 2017

NAME OF ORGANISERS/WHO WAS PROTESTING	CAUSE	DATE	FORM OF ASSEMBLY	LOCATION	SPECIFIC ISSUES	NO. OF PROTESTS	MEDIA REPORTS
4 branches of the national workers union	exclusion of the 4 branches from the workers union	05.01.2017	Press conference in front of the workers union offices	Skopje		1	Time.mk search
Union of albanian students	arrest of Ramus Haridenai, a Kosovar paramilitary leader	06.01.2017	Protests in front of the french embassy in Skopje	Skopje		1	Time.mk search
4 branches of the national workers union	exclusion of the 4 branches from the workers union	09.01.2017	Participants of the assembly where not allowed to enter their workplaces	Skopje		2	Time.mk search
Union of albanian students together with professors, former paramilitary members and others	arrest of Ramus Haridenai, a Kosovar paramilitary leader	11.01.2017	Protests in front of the french embassy in Skopje	Skopje		2	Time.mk search
Workers in a factory that is bankrupt	Bankruptcy of the factory that they were working in and demands of payment of missed monthly payments	25.01.2017	March through the city of Skopje	Skopje		1	Time.mk search
Workers of a metalurgy factory in Jegunovce	Closing of the factory for not complying with laws for environmental protection	31.01.2017	Blocking of the highway between Tetovo and Gostivar	Tetovo and Gostivar		1	Time.mk search
Journalists from a media printing house	Unregular payment of wages	31.01.2017	leaving work for 15 minutes and protesting in front of the offices of the media company	Skopje		1	Time.mk search
Non formal group of citizens of Tetovo	High electricity bills	03.02.2017	Protesting in front of the electricity company in Tetovo	Tetovo		1	Time.mk search
Members of the political party VMRO - DPMNE	Questioning of party members for a criminal case in the police station	09.02.2017 - 10.02.2017	Protesting in front of the police station of Ohrid	Ohrid		1	Time.mk search
Non formal group of citizens of Tetovo	High electricity bills	10.02.2017	Protesting in front of the electricity company in Tetovo	Tetovo		2	Time.mk search
Locals from skopje and the non formal group No pasaran	Protest against the heating suppliers for asking them to pay bills although they are not connected to the grid	11.02.2017	in front of the regulatory commission	Skopje		1	Time.mk search
NGO Zani together with friends, family and locals from Kumanovo	First day of court for a case where a young boy named Almir was killed by a car	15.02.2017	Protesting in front of the court in Kumanovo	Kumanovo		1	Time.mk search
Locals from skopje and the non formal group No pasaran	Protest against the heating suppliers for asking them to pay bills although they are not connected to the grid	11.02.2017	in front of the regulatory commission	Skopje		2	Time.mk search

NAME OF ORGANISERS/WHO WAS PROTESTING	CAUSE	DATE	FORM OF ASSEMBLY	LOCATION	SPECIFIC ISSUES	NO. OF PROTESTS	MEDIA REPORTS
Locals from the municipality Debrca	Protest against the new highroad going through Debrca with consernes that the new highway will polute the river that is close by	19.02.2017	blocking the road works	Debrca		1	Time.mk search
Locals from Veles	Protest against comments made in public television that denounced the work of Kostadin Racin	21.02.2017	peaceful protest in front of school named after Kosta Racin	Veles		1	Time.mk search
Non formal group named Tvrdochorni (tr-hardliners)	Protesting against the macedonian political parties for not respecting the interest of Macedonians	24.02.2017	March through the city of Skopje (From the main church in Skopje to the park in front of the parliament)	Skopje		1	Time.mk search
Locals from skopje and the non formal group No pasaran	Protest against the heating suppliers for asking them to pay bills although they are not connected to the grid	24.02.2017	in front of the regulatory commission	Skopje		3	Time.mk search
Locals from Skopje and Tetovo	High electricity bills	24.02.2017	In Tetovo and Skopje in front of the electricity company	Skopje and Tetovo		3	Time.mk search
Za Zaednicka Makedonija	Protest against bilingualism in Macedonia and political negotiations for formation of a new government	27.02.2017	In front of the government building	Skopje		2	Time.mk search
Za Zaednicka Makedonija	Protest against bilingualism in Macedonia and political negotiations for formation of a new government	28.02.2017 - 15.05.2017	In Skopje in front of the government building and parliament building, in the other cities marches were organised.	Almost all cities in Macedonia	Journalists were attacked by protesters in Skopje, attacks against the museum of albanian language in Bitola and a violent entering and beating of MPs	76	
Not accepted police cadets	Protest against them being not accepted in the police acadamey	14.03.2017	In front of the offices of the ministry of interior	Skopje		1	Time.mk search
Workers of the company „transmet“ and the tv station TV Nova	Protest a court decision to bring the owner of the company in custody during the remeinder of the trial	16.03.2017	in front of the court	Skopje		1	Time.mk search
Workers of the company „transmet“ and the tv station TV Nova	Protesting a court decision to bring the owner of the company in custody during the remeinder of the trial	20.03.2017 - 06.04.2017	in front of the special prosecution office, the EU info center in Skopje and OSCE mission in Skopje	Skopje		21	Time.mk search

NAME OF ORGANISERS/WHO WAS PROTESTING	CAUSE	DATE	FORM OF ASSEMBLY	LOCATION	SPECIFIC ISSUES	NO. OF PROTESTS	MEDIA REPORTS
Employees in the judicial service	protesting for higher salaries	31.03.2017	in front of the courts	Skopje		1	Time.mk search
Workers from a manufacturing company called Zona Triko	unpaid salaries to the employees for over a year	02.04.2017	in front of the factory	Vinica		1	Time.mk search
Farmers from Bitola, Strumica and Kocani	unpaid subsidies	04.04.2017	in front of the local branches of the ministry for agriculture	Bitola, Strumica and Kocani		1	Time.mk search
Locals from the municipality of Aerodrom in the city of Skopje	against a new Detailed Urban Plan	05.04.2017 -11.04.2017	in front of the municipality building	Skopje		6	Time.mk search
Farmers from Sveti Nikole	unpaid subsidies	07.04.2017	in front of the local branches of the ministry for agriculture	Sveti Nikole		1	Time.mk search
Anima mundi NGO	Poisoning of street animals in Skopje	09.04.2017	Main square in Skopje	Skopje		1	Time.mk search
Locals from Struga	protest against the local landfill that was burning in the past days	18.04.2017	in front of the municipality building	Struga		1	Time.mk search
Parents of children with disabilities	for a better state care and support from the state	20.04.2017 - 23.04.2017	camp in front of the parliament building	Skopje		3	Time.mk search
Farmers from all of Macedonia	unpaid subsidies	25.04.2017	blocking of public roads all over macedonia and protest in front of the ministry for agriculture in Skopje	Skopje		1	Time.mk search
Workers unions and workers rights groups	better working conditions	01.05.2017	March through Skopje	Skopje		1	Time.mk search
Far right group "Kjoseto"	support for their arrested head of group. He was arrested for the violent entering and beating inside of the parliament on 27.04, a protest organized by the group Za zaednicka Makedonija	05.05.2017	in front of the police station in Skopje	Skopje		1	Time.mk search
Locals from skopje and the non formal group No pasaran	Protest against the heating suppliers for asking them to pay bills although they are not connected to the grid	13.05.2017	in front of the regulatory commission	Skopje		4	Time.mk search
Former members of trhe colorful revolution	in remembrance of the biggest protest organized by them two years before	17.05.2017	In front of the government building	Skopje		1	Time.mk search

NAME OF ORGANISERS/WHO WAS PROTESTING	CAUSE	DATE	FORM OF ASSEMBLY	LOCATION	SPECIFIC ISSUES	NO. OF PROTESTS	MEDIA REPORTS
supporter groups for the arrested from the violence on the 27th of april	in support of their imprisoned friends and families	18.05.2017	in front of the courts	Skopje		1	Time.mk search
Taxi drivers from Skopje	Protests for less regulation in the taxi industry	18.05.2017	In front of the government building	Skopje		1	Time.mk search
Locals from the Karpos municipality	against a restaourant in the neighborhood	20.05.2017	in front of the restaurant	Skopje		1	Time.mk search
supporter groups for the arrested from the violence on the 27th of april	in support of their imprisoned friends and families	23.05.2017	in front of the courts	Skopje		1	Time.mk search
Locals from skopje and the non formal group No pasaran	Protest against the heating suppliers for asking them to pay bills although they are not connected to the grid	27.05.2017	in front of the regulatory commission	Skopje		5	Time.mk search
Locals from skopje and the non formal group No pasaran	Protest against the heating suppliers for asking them to pay bills although they are not connected to the grid	03.06.2017	in front of the regulatory commission	Skopje		6	Time.mk search
Locals from Struga	protest against the local landfill that was burning in the past days	10.06.2017	Blocking a regional motorway	Struga		2	Time.mk search
non formal group Save Valandovo	protest against a new mine field in the region	13.06.2017	blocking a regional motorway	Valandovo		1	Time.mk search
non formal group Save Valandovo	protest against a new mine field in the region	14.06.2017	blocking a regional motorways	Valandovo, Dojran, Gevgelija and Strumica		2	Time.mk search
Locals from Struga	protest against the local landfill that was burning in the past days	15.06.2017	Blocking a regional motorway	Struga		3	Time.mk search
Farmers from Prilep and Gradsko	Protest for better placment of their products	20.06.2017 - 21.06.2017	Blocking a regional motor way	Prilep and Gradsko		1	Time.mk search
Parents of children with disabilities	for a better state care and support from the state	20.06.2017	camp in front of the parliament building	Skopje		2	Time.mk search
Locals from Struga	protest against the local landfill that was burning in the past days	21.06.2017	speeches in the city center of Struga	Struga		4	Time.mk search

NAME OF ORGANISERS/WHO WAS PROTESTING	CAUSE	DATE	FORM OF ASSEMBLY	LOCATION	SPECIFIC ISSUES	NO. OF PROTESTS	MEDIA REPORTS
Locals from the municipality Kisela Voda in Skopje	Against a new road that will block the entrance to their homes	23.06.2017	blocking the road works	Skopje		1	Time.mk search
Locals from skopje and the non formal group No pasaran	Protest against the heating suppliers for asking them to pay bills although they are not connected to the grid	24.06.2017	in front of the regulatory commission	Skopje		7	Time.mk search
Workers union of the manufacturing plant Kolska	late payments of wages	27.06.2017	in front of the parliament building	Skopje		1	Time.mk search
Members of the political party VMRO - DPMNE	against the court cases brought up by the special prosecution office	29.06.2017 - 30.06.2017	in front of the courts	Skopje		2	Time.mk search
Locals from skopje and the non formal group No pasaran	Protest against the heating suppliers for asking them to pay bills although they are not connected to the grid	01.07.2017	in front of the regulatory commission	Skopje		8	Time.mk search
Workers union of the manufacturing plant Kolska	late payments of wages and broken promises by the government	05.07.2017	blocking the train tracks from Veles to Skopje	Veles		2	Time.mk search
For a green Taftalidze	against the new urbanistic plans	05.07.2017	march through the neighborhood of Karpos	Skopje		1	Time.mk search
Teachers in the municipality of Bogovinje	Unpaid salaries for the previous two months	06.07.2017	in front of the municipality building	Bogovinje		1	Time.mk search
Locals from the village Gorno Orizari	no water supply in the village	07.07.2017 - 09.07.2017	blocking the road between Veles and Caska	Veles		2	Time.mk search
Melon farmers from Strumica	Low subsidies from the government	13.07.2017	blocking a main road in Strumica	Strumica		1	Time.mk search
People from the village of Lagadin near Ohrid	Against a illegally build building close to the lake	15.07.2017	Blocking the main road close to the lake	Ohrid		1	Time.mk search
Organization called "people against poverty"	Against the speech of the prime minister after signing an mutual agreement with Bulgaria	26.07.2017	blocking the main road in front of the government	Skopje		1	Time.mk search
Supporters of the political party Levica (the left)	protest against an army convoi from the USA	29.07.2017	tehnicaly not a public protest since it was less than 20 people. Few supporters put out banners close to the army convoi	Skopje		1	Time.mk search

NAME OF ORGANISERS/WHO WAS PROTESTING	CAUSE	DATE	FORM OF ASSEMBLY	LOCATION	SPECIFIC ISSUES	NO. OF PROTESTS	MEDIA REPORTS
People from the village of Lagadin near Ohrid	Against a illegally build building close to the lake	04.08.2017	Blocking the main road close to the lake	Ohrid		2	Time.mk search
Locals from Karpos municipality	against the poor airquality	05.08.2017	in front of the municipality building	Skopje		1	Time.mk search
People from the village of Lagadin near Ohrid	Against a illegally build building close to the lake	06.08.2017	Blocking the main road close to the lake	Ohrid		3	Time.mk search
Locals from the village Poroj	Protest becouse of no repairs being made in their village after a flood	18.08.2017	blocking the road between Jegunovce and Tetovo	Tetovo		1	Time.mk search
Locals from Tetovo	Protest against a landfill in the center of the city	20.08.2017	Throwing garbage towards the municipality building	Tetovo		1	Time.mk search
Locals from the neighborhood Debar maalo	Protest against not having any sidewalks around the place where they live	21.08.2017	Blocking roads in the city center	Skopje		1	Time.mk search
Locals from skopje and the non formal group No pasaran	Protest against the heating suppliers for asking them to pay bills although they are not connected to the grid	02.09.2017	in front of the regulatory commission	Skopje		9	Time.mk search
Non formal group named Tvrdochorni (tr-hardliners)	Calling for amnesty of the protesters which entered parliament and attacked MPs	02.09.2017	March through the city of Skopje (From the main church in Skopje to the park in front of the parliament)	Skopje		2	Time.mk search
Workers union of the manufacturing plant Kolska	late payments of wages and broken promises by the government	11.09.2017	In front of the government building	Skopje		3	Time.mk search
Non formal group named Tvrdochorni (tr-hardliners)	Against the new law for language use in Macedonia	13.09.2017	in front of the parliament building	Skopje		3	Time.mk search
20 non governmental organization working in the Ecology sector	Against the airpollution in the city	21.09.2017	In front of the government building	Skopje		1	Time.mk search
Locals from skopje and the non formal group No pasaran	Protest against the heating suppliers for asking them to pay bills although they are not connected to the grid	23.09.2017	in front of the regulatory commission	Skopje		10	Time.mk search
Locals from skopje and the non formal group No pasaran	Protest against the heating suppliers for asking them to pay bills although they are not connected to the grid	30.09.2017	in front of the regulatory commission	Skopje		11	Time.mk search

NAME OF ORGANISERS/WHO WAS PROTESTING	CAUSE	DATE	FORM OF ASSEMBLY	LOCATION	SPECIFIC ISSUES	NO. OF PROTESTS	MEDIA REPORTS
Initiative "youth for Gjorce Petrov"	protest for safer spaces for walking and crossing the road for children	01.10.2017	blocking one of the streets in the neighborhood	Skopje		1	Time.mk search
Non formal group named Tvrdochorni (tr-hardliners)	calling for the president of macedonia to revoke the mandate of the prime minister	12.10.2017	March through Skopje	Skopje		4	Time.mk search
Locals from skopje and the non formal group No pasaran	Protest against the heating suppliers for asking them to pay bills although they are not connected to the grid	21.10.2017	in front of the regulatory commission	Skopje		11	Time.mk search
Ethnic albanians from Skopje	Protest against a court decision	05.11.2017	in front of the courts	Skopje		1	Time.mk search
Workers from the factory Feni	Protest against the closure of the factory	07.11.2017-13.11.2017	in front of the three major banks that sue the company and blocking regional roads	Kavadarci and the area		7	Time.mk search
Locals from skopje and the non formal group No pasaran	Protest against the heating suppliers for asking them to pay bills although they are not connected to the grid	11.11.2017	in front of the regulatory commission	Skopje		12	Time.mk search
Non formal group named Tvrdochorni (tr-hardliners)	Protesting against the macedonian political parties	22.11.2017	in front of the political party VMRO DPMNE	Skopje		5	Time.mk search
Five formal non governmental organizations under the name "women, mothers and defenders"	protesting against the political elites that disrespect the interests of Macedonians	25.11.2017	in the park "Zhena Borec" near the parliament building	Skopje		1	Time.mk search
Members of the political party VMRO - DPMNE	Protesting against a court decision to put many of their members in custody for the happenings of 27th april in the parliament	26.11.2017 - 23.12.2017	in front of the courts, blocking streets in the center of Skopje	Skopje		28	Time.mk search
non formal group Save Valandovo	protest against a new mine field in the region	08.12.2017	Blocking a regional road in Valandovo and in front of the government building	Valandovo and Skopje		2	Time.mk search
Formal and informal groups working on animal rights	against the poisoning of stray animals in Skopje	17.12.2017	in front of the municipality building	Skopje		1	Time.mk search
Locals from skopje and the non formal group No pasaran	Protest against the heating suppliers for asking them to pay bills although they are not connected to the grid	23.12.2017	in front of the regulatory commission	Skopje		13	Time.mk search
Locals from skopje and the non formal group No pasaran	Protest against the heating suppliers for asking them to pay bills although they are not connected to the grid	30.12.2017	in front of the regulatory commission	Skopje		14	Time.mk search

BIBLIOGRAPHY

International instruments

Council of Europe, Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights), CETS No.005

Organization for Security and Co-operation in Europe (OSCE) and Council of Europe's Commission for Democracy through Law (Venice Commission): Guidelines on Freedom of Peaceful Assembly (2nd edition)

Organization for Security and Co-operation in Europe, *Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE*, 29 June 1990

European Commission for Democracy through Law (Venice Commission), Opinion on Video surveillance in public places by public authorities and the protection of human rights, Adopted by the Venice Commission at its 70th Plenary session

International reports

European Commission, Key findings of the 2018 Report on the former Yugoslav Republic of Macedonia, European Commission

European Commission, The Former Yugoslav Republic of Macedonia Progress Report 2014, COM(2014)700 final of 8.10.2014.

UN Human Rights Council, *Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association*, 24 April 2013, A/HRC/23/39

UN Human Rights Council, *Joint report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association*

and the Special Rapporteur on extrajudicial, summary or arbitrary executions on the proper management of assemblies, 4 February 2016, A/HRC/31/66

UN Human Rights Council, *Report of the Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association*, 21 May 2012, A/HRC/20/27

National legislation

Criminal Code ("Official Gazette of the Republic of Macedonia" nos. 37/1996, 80/1999, 4/2002, 43/2003, 19/2004, 81/2005, 60/2006, 73/2006, 7/2008, 139/2008, 114/2009, 51/2011, 135/2011, 185/2011, 142/2012, 166/2012, 55/2013, 82/2013, 14/2014, 27/2014, 28/2014, 41/2014, 115/2014, 132/2014, 160/2014, 199/2014, 196/2015 and 226/2015

Decision of the Constitutional Court of the Republic of Macedonia U. no 31-2006 of 1st of November 2006 ("Official Gazette of the Republic of Macedonia" no. 119/2006) Decision

Decision on the Establishment of Standing Inquiry Committee For Protection Of Civil Freedoms And Rights of 10th of April 1992 ("Official Gazette of the Republic of Macedonia" no. 25/1992

Decision on use of public spaces of the City of Skopje, ("Official Gazette of City of Skopje" no. 5/2008)

Law on Police ("Official Gazette of the Republic of Macedonia" nos. 114/2006, 6/2009, 145/2012, 41/2014, 33/2015, 31/2016, 106/2016, 120/2016 and 21/2018)

Law on Public Assemblies ("Official Gazette

of the Republic of Macedonia" nos. 55/1995, 19/2006, 66/2007 and 152/2015)

Law on the Ombudsperson ("Official Gazette of the Republic of Macedonia" nos. 60/2003, 114/2009, 181/2016, 189/2016 and 35/2018)

Law for Public Prosecution (Yet to be published in the Official Gazette of the Republic of Macedonia, available on the Parliament web-site here <http://sobranie.mk/materialdetails.nsp?materialId=336b1882-dbaf-4840-a9aa-4036d42168c5>)

Law for Courts Prosecution (Yet to be published in the Official Gazette of the Republic of Macedonia, available on the Parliament web-site here <http://sobranie.mk/materialdetails.nsp?materialId=29e77141-560a-48a6-802f-4942d8053d3e>)

National research reports and national organization reports

Freedom of Assembly in Macedonia, Reactor – Research in Action, 2016 http://reactor.org.mk/CMS/Files/Publications/Documents/Macedonia_WBA%20Project%20Report.pdf

"Special report on identified and possible crimes committed during the violent attack on the Assembly on 27 april 2017" Helsinki Committee For Human Rights of The Republic of Macedonia May 05th 2017, <http://www.mhc.org.mk/analysis/578?locale=en#.WeM-N1uCyM9>

Association of Journalists of Macedonia, Report of violence against reporters 2014-2018.

Ombudsperson of Republic of Macedonia, Annual Report on the level of respect, promotion and protection of human rights for 2016, 2017

Media reports

"More than 70 injured as protesters storm Macedonia's parliament and attack politicians and police", The Telegraph April 28th 2017, <http://www.telegraph.co.uk/news/2017/04/27/protesters-storm-macedonia-parliament-social-democratic-leader/>

"Incidence in parliament and accountability pt1, pt2 and pt3", Telma TV, KOD show, May 14th 2017, <https://www.youtube.com/watch?v=59Q4ehr7Q1E>

27th of April – 30 people inedited for terrorism, Alsat - TV <https://www.alsat-m.tv/mk/27-%d0%b0%d0%bf%d1%80%d0%b8%d0%bb-%d0%be%d0%b1%d0%b2%d0%b8%d0%bd%d0%b5%d0%bd%d0%b8%d1%98%d0%b0-%d0%bf%d1%80%d0%be%d1%82%d0%b8%d0%b2-30-%d0%bb-%d0%b8%d1%86%d0%b0-%d0%b7%d0%b0-%d1%82/>

"The attackers of Zijadin Sela got 30 days in detention for the attempted murder of the MP" MKD.mk May 11th 2017, <https://www.mkd.mk/makedonija/politika/napagjachte-na-sela-dobija-po-30-dena-pritvor-sprovedeni-se-vo-shutka>

"Four activists of Levica were detained for a protest (video)" Libertas July 30th 2017, <https://www.libertas.mk/video-privedeni-chlenovi-na-levitsa-koi-protestiraa-protiv-voenata-vezhba-i-prezentatsijata-na-voenata-oprema-na-sad/>

"Disciplinary actions against the officers that detained activists from Levica" Nova Makedonija August 1th 2017, <https://goo.gl/WpV5ve>

What is a critical mass? "Time's up" NYC's
Direct Action Environment Organization,
<https://times-up.org/critical-mass/what-critical-mass>

"Disciplinary actions against the officers
that detained activists from Levica" Nova
Makedonija August 1th 2017, <https://goo.gl/WpV5ve>

The right to free assembly is an indispensable element of democracy and a healthy civil society. Recent years have seen a new era of mass protests, but also a significant increase in practical restrictions on the right in Western Balkan and Eastern Partnership countries. The European Center for Not-for-Profit Law (ECNL) supports its network of local partners (in Albania, Armenia, Belarus, Bosnia and Herzegovina, Croatia, Macedonia, Moldova, Montenegro, Kosovo, Serbia and Ukraine) to monitor local laws, observe protests, report challenges and engage in the legal reform process to protect and promote this fundamental right.

This year's monitoring reports build on previous efforts and explore issues that are of relevance for all the participating countries. Accordingly, beyond the legal framework, the reports also look at the role of civil administration, policing, criminalization of protesters, as well as the overarching issue of accountability manifesting in all of these aspects.



 **#right2freeassembly**