

MONITORING THE RIGHT TO FREE ASSEMBLY

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2017 REPUBLIC OF
2018 MOLDOVA

 [#right2freeassembly](https://twitter.com/right2freeassembly)



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I. EXECUTIVE SUMMARY

The current report is a product of the PromoLEX Association, which describes the situation of freedom of assembly in the Republic of Moldova during the period of 2017-2018, with a specific focus on the legal framework, the role of the civil administration, policing of assemblies, and the criminalisation of protesters. The report has been elaborated within the ECNL initiative to monitor the right to freedom of assembly in countries from the Western Balkans and the Eastern Neighborhood and of the European Union, including the Republic of Moldova. The monitoring action has been carried out in 2018 based on the methodology, developed by the ECNL, which includes the analysis of the legal framework of freedom of assembly, quantitative data on assemblies, interviews with relevant actors involved in exercising and facilitating the exercise of freedom of assembly and real-time monitoring of assemblies.

The Republic of Moldova has one of the most liberal regimes of freedom of assembly in the region. It is based on the legal framework of the European Convention on Human Rights, on the provisions of the Constitution and on a special law adopted in 2008, which operates without modification since then. The organizational procedure of the public assemblies is based

on the notification process, in which the local public administration authorities have a central role, complemented by the responsibilities of the Police and the Carabineers.

Statistical data, collected by the Police and the local public authorities (LPA), show that in 2017, more than 1000 assemblies took place in Moldova, and over 300 in the first eight months of 2018. Most of the assemblies (over 50% in 2017 and 30% in 2018) took place in Chisinau, which is an ordinary situation where Chisinau, as the capital and the largest city, is the main arena of public assemblies. Other large cities like Balti, Comrat, Ungheni or Orhei annually host a maximum of 3% of the total number of assemblies.

In this context, given the existing procedures and practices shared by the authorities and organizers, several trends that pose some management problems and affect the observance of freedom of assembly have been identified during the monitored period.

Even if most organizers are of good faith, there is a practice of notifying a large number of assemblies in advance, several months or even years ahead, of which only a small part is realized. In the same vein, some organizers have notified public assemblies for 80 years

in advance until 2099. In this way, willingly or unwillingly, the organizers block other people's possibility to exercise their right to assembly in the reserved spaces.

With regard to the local public administration authorities, it was found that they generally fulfill their duties without violating the right to freedom of assembly or exceeding their powers, and the procedures are transparent and simple. However, a worrying practice has been noticed, when municipalities issue provisions for non-discriminatory cessation of public assemblies on when closing access to public spaces on the occasion of official ceremonies. In the case of smaller towns, where public assemblies are rarer, deviations from the legal provisions have been reported due to the lack of training of the officials involved. A success story was registered in the Chisinau City Hall, which manages a public web platform on public assemblies that contains all the public information about the notified assemblies since 2011. On the other hand, the Chisinau City Hall also identified a stringent need for increasing the number and training of the personnel responsible for public assemblies.

Police and Carabineers are the main forces involved in protecting peaceful assemblies and ensuring public order at the assemblies. The Caranibeer troops are a military structure part of the Armed forces of the Republic of Moldova, under the administrative subordination of the Ministry of Internal Affairs, which in peacetime execute policing attributions as a support structure for Police.

Generally, law enforcement authorities facilitate the assemblies, and in this context, their work is the most visible and the

most often criticized. The organizers and participants in the assemblies reported poor communication skills of law enforcement officers, and in smaller localities, insufficient knowledge of the legislation. A series of assemblies, held in the second half of 2018, revealed the weak points of law enforcements. They disproportionately and allegedly illegally used special means, unjustifiably stopped some peaceful assemblies and applied force to evict peaceful participants. Law enforcements were often present at peaceful assemblies, in disproportionately large numbers, wearing tactical equipment, without individual identification marks, in some cases, with automatic weapons, and several times, they blocked road traffic on extended portions of the locality. Although in 2018, the police launched a new service called Dialogue Police, which has to facilitate communication with the participants and organizers of the assemblies, it has not proved its effectiveness yet. In difficult situations, law enforcement authorities apply tactical measures as a matter of priority, even if the options of dialogue and negotiation are not consumed.

During the reporting period, violation of assembly law was the subject of 15 minor offenses and 4 criminal cases, as well as other sanctions for hooliganism or mass disorder committed at assemblies.



II. BACKGROUND AND CONTEXT

The public assemblies are widely used by the private and public actors in the Republic of Moldova as an instrument of freedom of assembly and a tool for political, commercial and other types of promotion. Public authorities do not have a unique system of records of the public assemblies, held in the Republic of Moldova. This makes it difficult to estimate quantitatively the data on the assemblies, carried out throughout the territory.

The main actors in charge of public assemblies, the Police and the local public authorities (LPA), keep parallel records, using different criteria for systematization of information. The most comprehensive data on public assemblies is collected by the National Patrol Inspectorate (NPI), which, since its inception in 2013, is the main national body responsible for ensuring, maintaining and restoring public order during public assemblies.

The methodology of data collection used by the NPI requires evidence of “mass events”, although this notion is not defined as such in any normative act. According to the NPI, 13.350 mass events took place throughout the territory of the Republic of Moldova in 2017, and 9.444 were held in January-August 2018. The biggest share of mass events consists

of *cultural, sports, religious events, official delegations and visits*. Mass events falling under the category of public assemblies appear in the statistics as *protests, rallies and demonstrations*. Based on these data, we can conclude that in the Republic of Moldova, 1083 public assemblies were held in 2017 and 328 public assemblies were held in the first eight months of 2018.

Under the legislation of the RM, the other categories of events (cultural, artistic, sporting, religious and official travels), are also largely subject to the same regime of organization and conduct, even if they do not fall within the definition of a public assembly.

According to the same source¹, distribution across cities shows that in 2017 and 2018, about 30% and 50% respectively of all annual assemblies took place in Chisinau (342 assemblies in 2017 and 169 in 2018 (January-August)). In 2018, the town of Singerei ranked second by the number of assemblies hosted, registering about 8% of the total assemblies. It is followed by Balti, Comrat, Ungheni, Orhei, Edinet and Ceadir-Lunga. In these cities, the annual number of public assemblies did not exceed a few tens, which represents 3% -4%

¹ Data registered between January and August 2018.

of the total.

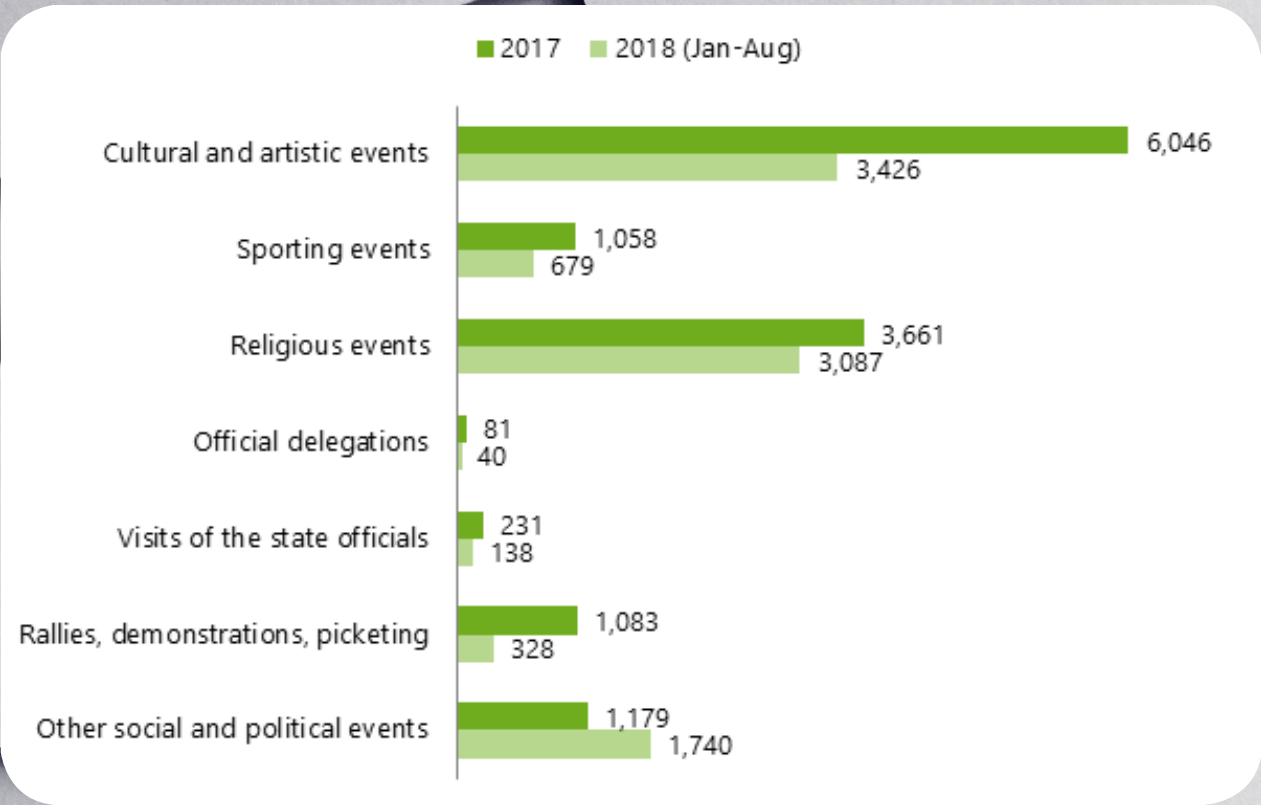
The statistics collected by LPA represent, in principle, an evidence of received notifications and do not contain the number of de facto assemblies held. These data confirm the proportion of the distribution of assemblies across the cities, with an even greater share falling for the Chisinau municipality. For example, the authorities of Chisinau were notified of 16 823 assemblies in 2017, and 9 330 assemblies in the first eight months of 2018.

The municipality of Chisinau, being the largest city and the capital, is also the main arena of public assemblies in Moldova. The city center is the most sought-after area for assemblies and the Great National Assembly Square is the most wanted public place among the organizers. In this context, the current report pays particular attention to the situation in Chisinau in each chapter of its content.

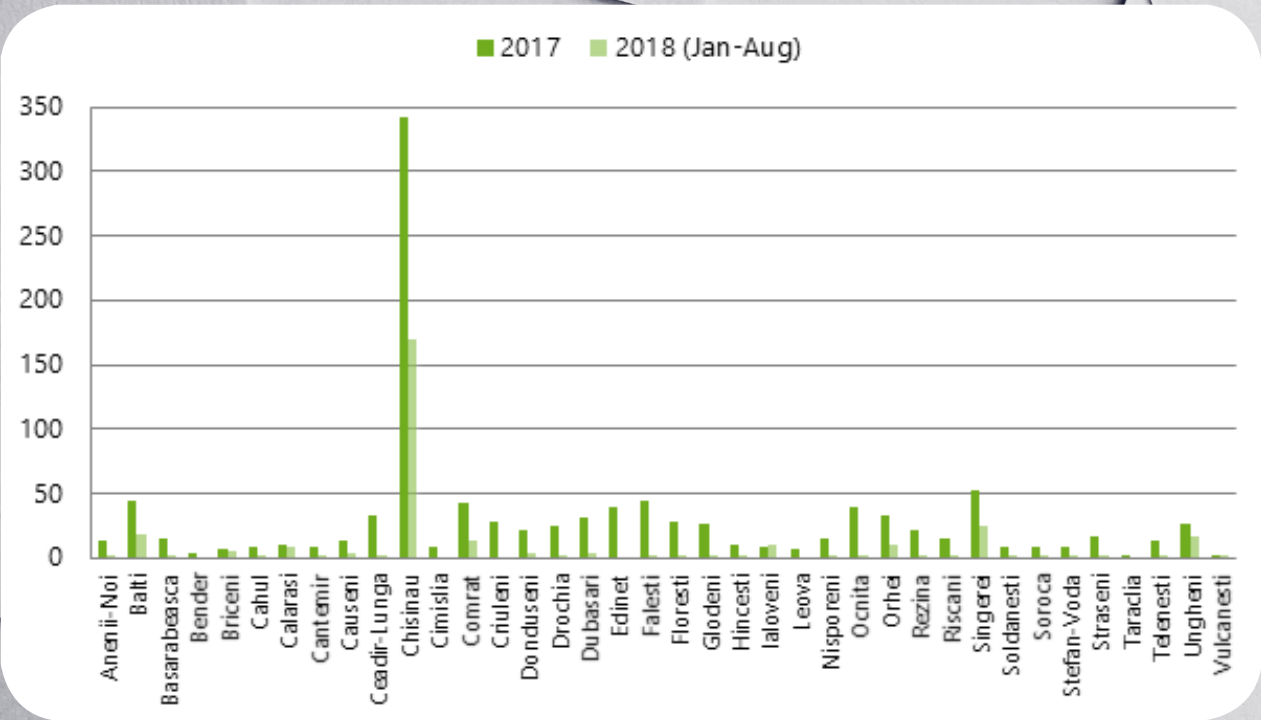
According to the data collected by the LPA, the spectrum of public assembly organizers in Chisinau includes a variety of categories, such as individuals, non-commercial organizations, political organizations (which together account for about 90% of all assemblies), the latter becoming more active in particular in pre-election periods. The other part of the assemblies is organized by commercial agents, initiative groups and international institutions. Balanced representation of different types of organizers provides a variety of goals and messages that mostly address social and political issues. According to the data of other LPAs, more than 90% of all assemblies are organized by political actors and they are mainly promoting political messages.

According to the data of the NPI, the total number of participants in the mass events was over 4 million people in 2017 and nearly 4 million in 2018. The average number of participants for an event was of 321 people in 2017 and 389 in 2018. The profile of public assemblies is not uniform. There is a large number of assemblies with few participants or even with solitary ones, as well as there are assemblies with hundreds and thousands of participants. The largest assemblies manage to gather up to 10 000 participants, although organizers usually claim figures a few times higher.

The average number of police officers present at the events over the course of both years was about 6 policemen per event. However, the real number of law enforcers was in fact higher, as beside police officers, carabinieri were also involved in ensuring public order, their number reaching in some cases several thousand per a single assembly. Unlike the Police, the Carabinieri are military, part of the Armed forces of the Republic of Moldova. Just like police, the Carabinieri are under administrative subordination of the Ministry of Internal Affairs. In peacetime, they execute policing attributions as a support structure for the Police. The staff of the Carabinieri is mainly formed of conscripts who execute their military service under the direction of a body of professional officers. The Carabinieri started a reform process that foresees the full professionalization of the structure by 2021. In the Republic of Moldova, the forms of public manifestations include static assemblies such as rallies, strike pickets, flash mobs and marches, as well as other forms involving



Socio-political and cultural-artistic measures monitored by the NPI in 2017 and 2018 (Jan-Aug)



Distribution across cities of protests, rallies and demonstrations and other socio-political events, held in 2017 and 2018 (Jan-Aug) (NPI)

theatrical performances, dances or various installations with audio-visual effects.

According to the data of the LPAs, in 2017 and 2018 (January-August), there were no assemblies with acts of violence or disorder outside Chisinau, nor were there forbidden, suspended, restricted or dispersed assemblies.

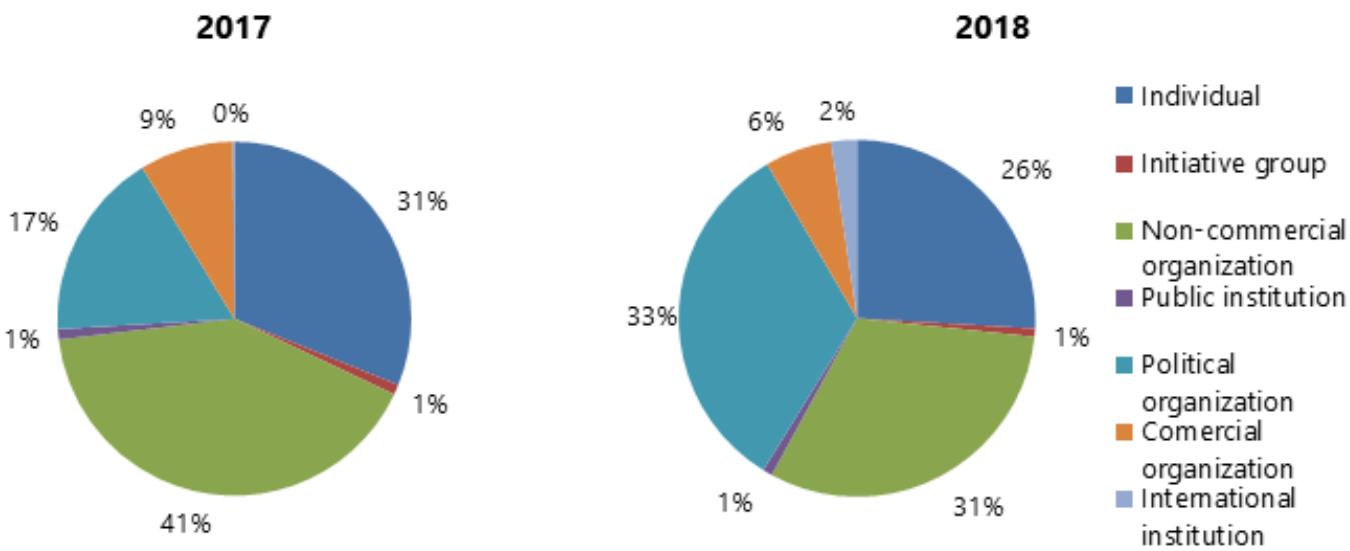
Instead, some of the peaceful assemblies were subject to provocative and violent actions on behalf of the third parties.

On June 26, 2018, a passer by started a verbal attack on the participants of a peaceful protest, held by the members of the New Right organization and the Honor, Dignity and Fatherland organization in front of the Russian Embassy in Chisinau. During the altercation, the passer by attacked

physically one of the participants. The participant defended himself, with a placard stick he was holding during the assembly. In the result of the fight, the attacker received a bloody wound on his head. Physical aggression lasted for a few seconds and the police managed to intervene only in the end of the incident.

In the same period, in Chisinau, at least three assemblies have been banned, the participants of one of them were forcibly evicted from the assembly place. As it is shown in the following sections, all the registered cases of assembly bans are related to the situations when the LPA issued dispositions to close access to public space during official actions carried out by the authorities. Also in Chisinau, there

were registered some cases, where the police resorted to physical force and special means, which are described further in the report. According to the prevalent opinion amongst the actors interviewed for the current report, the freedom of assembly is largely enabled in the Republic of Moldova but could be improved. Eventual restrictions of assemblies, when they occur, are usually directed against anti-governmental assemblies, while pro-government assemblies generally enjoy more favourable facilitation. The opinions regarding the dynamics of the status of freedom of assembly are divided, some claim that the situation is improving while others consider it to be the same as several years ago.



Organizers of public assemblies in Chisinau

III. LEGAL FRAMEWORK



Starting with 2008, Moldova has a legislative regime that regulates freedom of assembly, which sets one of the most liberal functional frameworks in the region. The legislation of the Republic of Moldova regulating freedom of assembly has not changed in the period of 2017-2018. There have been no proposals for change and there were no reasons for such initiatives.

The Republic of Moldova ratified the European Convention for the Protection of Human Rights and Fundamental Freedoms in 1997, and Article 11 is part of the national framework for regulating freedom of assembly.

Freedom of assembly is guaranteed by the Constitution, which in Article 40 provides that *assemblies, demonstrations, processions or any other assemblies are free and may be organized and held only peacefully, without any weapons.*

The way of organizing and conducting public assemblies that take place out of doors is regulated by a special law – Law on public assemblies no. 26 of 22 February 2008. Religious assemblies, sporting events, cultural and artistic events and other entertaining activities, as well as commercial actions are not, in principle, subject to the law on assemblies. However, until the adoption of

special normative acts, all the manifestations mentioned above are carried out according to the provisions of this law. In the case of commercial events, the LPA authority is entitled to charge fees for the services requested by the organizers.

For the organization of assemblies, the law establishes a notification procedure, anyone having the right to organize and participate in a public assembly on a voluntary basis. Minors who have not reached the age of 14, as well as those declared incapable, can only hold assemblies together with a person with full capacity.

Organization of assemblies is subject to notification procedure. In the case of spontaneous assemblies and those with few participants (less than 50 people), exceptions to the normal notification procedure are provided.

Procedures for organizing, conducting, banning, suspending or dispersing a public gathering are described in detail, and the rights and obligations of organizers, participants, local public authorities, police and courts are expressly provided for in the law.

In the period covered by the current report, the only legislative proposal indirectly targeting



functional framework of freedom of assembly is the Law on the General Inspectorate of the Carabineers, which was drafted by the Ministry of Internal Affairs and proposed to the government for examination in 2017. The law has been adopted by the Parliament of the Republic of Moldova November 8, 2018, and is to be promulgated by the President who holds opposing views on the content of the project. The law was developed in the context of the reforming of the Ministry of Internal Affairs and its subordinate and decentralized structures.

The project seeks to establish a system of integrated public order and security, in which the Carabineers will represent a specialized state institution with a military status, subordinated to the Ministry of Internal Affairs, which will take over, inter alia, the responsibility to ensure and restore order in public assemblies. According to the Carabineer Troop Reform Strategy for 2017-2020, Carabineers are expected to take over the tasks of ensuring and restoring public order at assemblies starting with 2020. Currently, these tasks are carried out by the Police with the support of the Carabineers. The Carabineers staff is mainly formed of conscripts who execute their military service under the direction of a body of professional officers. The reform project foresees the full professionalization of the structure by 2020.



IV. ADMINISTRATION OF FREEDOM OF ASSEMBLY

The Law on Assemblies establishes an administrative framework that provides for procedures for all stages of organizing, conducting and administering public assemblies. According to the legislation, the central authority managing freedom of assembly is the authority of the local public administration. The local government has a central decision-making role and clearly defined responsibilities at all stages of organizing and ensuring the holding of public assemblies. Certain decision-making responsibilities rest with the courts.

Besides the LPA, the institution most involved in the process is the Police. It has the duty to protect peaceful assemblies and to ensure public order. Other institutions involved in different stages are the Department of Carabineer Troops, the State Protection and Guard Service, the General Prosecutor's Office, the General Inspectorate for Emergency Situations and the People's Advocate Office (Ombudsman).

All the administration regulations in place are based on the Law on assemblies and are not subject to local regulations. Some of the practical operational aspects put in place by the LPA vary from locality to locality and

are further addressed under each chapter of interest.

REGISTRATION OF NOTIFICATIONS

In order to hold an assembly, the organizer shall notify the local public administration authority. The organizer *shall submit, at least five days before the date of the assembly, a notification filled out in advance in a free form that includes information on the place, date, time, purpose of the event, organizer's name, estimated number of participants.* The city hall of the locality where the assembly is planned has the obligation to register the notification, which cannot be refused. *The City Hall provides a stamped copy of the notification, which must contain the number, date and time of the registration.* The legal notification procedure ends when the notification is registered.

Besides being an instrument in ensuring a smooth running of the assembly and directly requesting certain facilities from the authorities, the notification allows the organizer to secure the preferential right to conduct the assembly at a certain time and location. If there is more than one request to hold assemblies in a certain place and the same time, the preferential right will be given to the first depositer.

The law provides for exceptions to the notification procedure in case of spontaneous assemblies and assemblies with few participants (less than 50). In the case of spontaneous assemblies, it is not necessary to observe the written form and the term, it is sufficient to provide information about the place, date, time, purpose and organizer of the assembly. For assemblies with less than 50 participants, there is no need to notify the authorities.

Basically, this stage does not present difficulties for the authorities. The organizers write notifications in a free form and submit them personally. Exceptionally, there were cases when the notifications were submitted by fax, mail or e-mail and have been accepted by the mayoralties. Each city hall, through its chancellery, registers the notification, and the procedure does not normally take longer than 5-10 minutes. Later on, the LPA proceeds with informing the administrative subdivisions and the law enforcement agencies of the content of the notification in order to arrange for the necessary measures and ensure the holding of the assembly.

If the organizers are not familiar with the legal procedure, they are guided by the LPA officials. The Chisinau City Hall offers organizers a predefined form for the notification, but accepts it in any form, if it contains all the information required by the law, even if they do not respect the 5-day term stipulated by the law.

In general, the organizers of assemblies emphasize the difference between the assistance provided by the LPA in Chisinau and the assistance provided by LPAs in small towns. In the localities where the practice of public

assemblies is very limited, some organizers noted that the local officials are not familiar with legal procedures of notification. The organizers of the assemblies claimed also that in previous years, there were cases when LPAs refused to register notifications, although according to the law, the LPA authority is obliged to register all notifications.

A widespread practice in the municipality of Chisinau, which is also applied by organizers in other localities, is the notification of several assemblies by a single notification. On average one notification notified 23 assemblies in 2017 and 18 assemblies in 2018. Virtually, the law does not prohibit this and the organizers use the opportunity to reserve public spaces, in case they would want at a certain point to hold an assembly in that specific place. Most of the time, the number of held assemblies is much smaller than the number of the ones that are notified. Another practice used by the organizers is reservation of assembly spaces through notifications for many years in advance. In this respect, in 2018 the Chisinau City Hall registered a notification, whereby the organizer reserves the right to hold assemblies in several places in the city on 24 January starting from 2019 up to 2099².

This is a vicious practice given the fact that conflicting situations appeared in 2018, as the question raised was which of the organizers had the preferential right to organize the assembly in that place.

Three different organizers submitted notifications for holding public assemblies in the Great National Assembly Square in

² <https://intruniri.chisinau.md/?mod=assemblies&do=showlist&date=2028-01-24#?mod=assemblies&do=ShowMeeting&Mid=5874&date=2028-01-24&back=list&targetid=maincontent>

Chisinau on August 26, 2018. The organizers participated in several meetings convoked by the LPA, in order to decide over a reasonable separation of the space during the simultaneous assemblies, but the meetings did not lead to a compromise. On August 26, 2018, a fourth organizer, the Sor Political Party installed a stage, sound equipment and other auxiliary facilities and held an assembly in the Great National Assembly Square, without submitting a prior notification. The Sor Political Party occupied abusively the place, violating the right of others to assemble and determining the impossibility for the other organizers to carry out their assemblies. **During the assembly, the bodyguards the Sor Party physically agressed the journalists and monitors who tried to approach the party leaders.** Exceptionally, if the notification does not contain all the information required by law, the LPA shall inform the organizer of this fact. However, the absence of notification or an incomplete notification is not a ground for the cessation of the assembly.

In 2018, the LPA of the Ialoveni town, after receiving notifications, in six cases sent written addresses to the organizers informing them that the notifications do not meet the conditions required by the law. Eventually the organizers gave up the organization of the notified assemblies.

After receiving the notification, the LPA sends the information about the notified assemblies both to the Police and its subordinate structures. In the municipality of Chisinau, the information is distributed to the Department of Carabineer Troops and the State Protection and Guard Service (SPPS).

INFORMING SUBDIVISIONS AND OTHER SERVICES AND ARRANGING FOR FACILITATION OF THE EVENT

In addition to the information required by law, the organizers may indicate in their notification any additional requests they consider necessary for the conduct of the assembly. Most often, the organizers ask for the protection of public order, connection to the power supply, and sometimes, presence of medical services. The law obliges the LPA to provide free of charge services which it normally provides, such as sanitation of the assembly site or public lighting at night. Although normally this kind of services are provided, on 01.09.2018, for inexplicable reasons, the Chisinau LPA did not provide night-time lightening during an assembly held in the center of the city on the Great National Assembly Square. In the case of the services which are not normally provided, the provision of services is based on a contract between the organizer and the provider. For example, according to the order issued by the City Hall of Chisinau, connection to the power supply for sound equipment is done by entering into a contract with Lumteh Municipal Enterprise (the municipal enterprise managing electrical networks and lighting in public spaces). If the required power supply exceeds 2.5 Kw, then the organizer addresses directly to the regional electricity supplier³. Some organizers noted that the tariffs⁴ for the use of electricity are exaggerated and that it actually represents a financial constraint on freedom of assembly.

Organizers are allowed by law to mount

³ <http://gasnaturalfenosa.md/>

⁴ The connection to the power source costs about 16 EUR plus the Kw consumed at the supplier's tariff.

temporary installations during assemblies. Organisers usually indicate these aspects in their notifications. Most often, organizers install stages and tents, in some situations, organizers installed mobile kitchens. However, in spontaneous assemblies, there were cases when, organizers decided to install tents for accommodating the protesters, without notifying the LPA.

MEETINGS WITH ORGANIZERS OF SIMULTANEOUS ASSEMBLIES

The law provides for the possibility of holding simultaneous assemblies. When there are at least two notifications for the same place and time, the LPA convenes the organizers in a joint assembly to decide how they will share the assembly space. If there is no compromise, the organizer, who first submitted the intention notification, has priority. The law does not foresee other situations, in which organizers can be summoned for meetings prior to the date of the assembly. The decision regarding which simultaneous assembly prevails is not subject to the courts of justice. However, in the case of dynamic assemblies, the National Patrol Inspectorate has the practice of inviting the organizers to agree on the logistical details of the march.

APPEALS

Upon the registration of the notification, when examining the notifications, *“if it considers it necessary for the peaceful conduct of the assembly, the local public administration authority may recommend to the organizers to modify the conditions for holding the declared assembly with regard to the time, place or form of the assembly”*. The final decision regarding

the change of the time, place or form of the assembly belongs to the organizer.

The LPA cannot ban directly an assembly, but it may request the court to prohibit or alter the time, place or form of the assembly, if it has conclusive evidence that the assembly falls under the profile of forbidden assemblies. It is solely the competence of the court to decide whether to prohibit the assembly, to change the conditions of its conduct, or to maintain the right to conduct it. *The court must adopt the decision no later than 3 days from the date of filing of the application by the LPA. Either party is entitled to appeal, within 3 days of the date of delivery of the court decision adopted.* The Law does not provide for a deadline for the examination of the appeal.

According to the official data, in 2017 and 2018, the LPAs did not initiate any single ban on assemblies.

In August 2018, given the regional epidemic of measles, the Executive Committee of the Gagauz Administrative Territorial Unit (ATU) issued a ban on all social and cultural events on the territory of the administrative unit. The provision also covered public assemblies and was in force for one month. The ban was lifted after the risk of measles infection was reduced. In this case, the Executive Committee of the Gagauz ATU has exceeded its competencies. According to the law, only the court can rule on the prohibition of a public assembly and the ban can be imposed only individually, upon the submission of conclusive evidence that an assembly may endanger the life or health of individuals.

In case of official events or repair work occurring in public space, the Law on assemblies

provides the LPA with a legal tool that, *at the request of the authorities concerned*, it can temporarily deny public access to these public spaces. In practice, the Mayor of Chisinau issues provisions limiting public access during the official events at the request of the State Protection and Guard Service, which is responsible for ensuring the protection of high ranking dignitaries. Until August 2018, by means of these provisions, the Chisinau LPA has expressly provided the banning of any assemblies in the areas concerned, although under the law, only the courts are assigned the right to prohibit an assembly in advance. A similar practice is still in place in the city of Orhei. In fact, in many cases, this instrument has been abused by law enforcement officials, who have used the mayor's provisions to restrict public assemblies even in places or during periods, in which no official events were held.

On the occasion of the official visit of the Marshal of the Senate of the Republic of Poland on October 4, 2018, the Chisinau City Hall issued a provision, by which it temporarily closed public access to certain areas of the city, including to the perimeter of the Parliament building. On the morning of October 4, 2018, 3 protests were held in front of the Parliament, their access to the building being limited by a metal fence, installed around the building, which almost closed the adjacent pavement leaving a minimum space for pedestrian traffic. The fence was dismantled by law enforcement

after the protest actions ended. At the time of Marshal's visit to the Parliament (in the afternoon), the area adjacent to the building was open to public access.

On May 10, 2018 on the occasion of the official celebration of the Day of Europe, the City Hall of Chisinau issued a provision closing public access to certain public spaces and banned all the assemblies in those spaces. Based on the provision, law enforcement officials did not allow the representatives of Falun Dafa Organization to protest in the Square of Europe, although the square was de facto opened for public access. At the same time, the representatives of an electoral competitor were allowed to carry out their campaigning activity in the same square.

BANNING AND DISPERSAL OF ASSEMBLIES

The LPA has another central role of banning and dispersing of assemblies. These two procedures are described in detail in the legislation and represent consecutive stages, applicable depending on the gravity of the violations found in the assembly. Banning is an exceptional measure that is only necessary, if other measures are not sufficient to ensure that the assembly is held legally. The decision to evict the violent participants, as well as the decisions to stop and disperse the assembly, belongs to the representative of the LPA, and is put in place together with the organizer of the assembly and the police.

If the organizer or participants do not comply with the requirements, the LPA representative shall order the procedure for dispersal of the assembly.

In 2017 and 2018, the authorities several times resorted to banning of public assemblies, although the conditions and procedure for the application of the ban have not been met.

On the morning of August 27, 2018, about 70 peaceful protesters of the (Resistance movement ACUM) have been forcibly evacuated by the law enforcement from the Stefan cel Mare Square in Chisinau. The intervention of law enforcers was based on the mayor's provision for temporary closing of public access and banning of any assemblies during the official events, dedicated to the Independence Day that were planned to take place in the square. The intervention occurred after the protesters refused to comply with repeated requests of the city hall representatives and the police to evacuate the place.

On the same morning of August 27, 2018, several hundred policemen and carabineers wearing tactical equipment with no identification and balaclavas surrounded the Occupy Guguta Civic Group, which had been holding for two months an anti-governmental, peaceful, non-stop protest in the Public Garden in the center of Chisinau. Without giving any explanations, the police summoned the 15 peaceful participants to leave the assembly place, allowing them to evacuate some of the personal assets that were used in the protest. The intervention of the law enforcement officers was based on the mayor's provision for temporary closing of public access and banning of any assemblies during the

official events. Having evicted the protesters' property, the police left the assembly place, and the protesters could return there. No official actions took place in the vicinity of the protest venue.

ASSISTING ASSEMBLIES BY THE LPA

The local public administration authority has the obligation to create all the conditions for the peaceful conduct of the assembly and to appoint a person responsible for its legal conduct, to communicate to the organizer and the police the name and contact details of the person.

Although all LPAs are governed by the provisions of the same law, in practice, there is no uniformity in how the process is organized in different localities. Depending on the locality, the responsibilities of the LPA pertaining to the organization and conduct of the assemblies are assigned to different subdivisions. In most of the localities, this role is assumed alternately by the staff of the chancellery, the secretariat, the legal departments, the culture sections or by the deputy mayors and mayors. Only in the municipality of Chisinau, there is one appointed civil servant responsible for public assemblies⁵ who is practically involved in the entire range of proceedings from the registration of the notification to assisting the assemblies at the venue. Formal responsibility for each assembly held in the municipality of Chisinau is attributed through Mayor's provisions to different employees of the Chisinau LPA. Given the big annual number of assemblies, hosted by the Chisinau municipality, the appointed employee, does not attend the vast majority of

⁵ <https://chisinau.md/pageview.php?l=ro&idc=442&t=/Primaria/Structura-Primariei/Directia-social-umanitara-si-relatii-interetnice>

the assemblies. In order to cope with the big number of assemblies, each of the Chisinau City District Administrations has appointed, since 2017, a responsible person (a total of 5) to assist the public assemblies taking place in the city. The appointed employees do not have the necessary training, knowledge and skills for the range of interventions provided by the legislation. Meanwhile a few of the appointed persons already left the LPA leaving vacant positions. Anyway, designated civil servants usually take only current decisions on the conduct of the assemblies, while important decisions like banning or dispersal of assemblies are taken by the mayor and deputy mayor.

In the municipality of Comrat, different officials are involved at each stage, the registration is carried out by the City Hall secretariat, the examination and the issuance of provisions - by the legal department, and assisting the assembly at the place of deployment is carried out by the local equivalent of the People's Guard.

While LPAs and public authorities collect data and information about the assemblies and their organizers, in general, they do not practice drafting and presenting public reports on freedom of assembly. The City Hall of Chisinau has set up an on-line system for recording and publishing information on notified public assemblies⁶. Since 2011 and up to the present, all the information about the notified assemblies and legislative acts in this respect has been systematized and made available to the public through the <https://intruniri.chisinau.md/> platform. At the date of the current report, the platform contained data

⁶ <https://intruniri.chisinau.md/>

and information on over 124 000 assemblies notified through 6 000 notifications. The platform is unique in the Republic of Moldova and represents a success story. A detailed description of the platform is provided in the Section vii of the report.

CASE STUDY: WEB PLATFORM

<http://intruniri.chisinau.md/>

The web platform for public assemblies <http://intruniri.chisinau.md/> is an online electronic tool used by the Chisinau City Hall to keep records of all the assemblies notified in the city and to offer these records publicly to anyone interested. The platform is complementary to the process of notification, regulated by the Law on public assemblies⁷. The platform is unique in the Republic of Moldova and represents a success story, with positive feedback from all its users and visitors.

The platform was developed and piloted in 2010 and is fully functional starting with 2011. It came out as a solution for the necessity to manage large amount of information provided by the increasing number of notifications for assemblies. So far it contains the records of over 124 000 assemblies notified through 6000 notifications registered by the Chisinau City Hall since 2011.

The <http://intruniri.chisinau.md/> platform includes a user friendly interface that provides a number of components and features that are further described:

Components

*Calendar of assemblies*⁸

It includes all the notified assemblies, distributed

⁷ <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=327693>

⁸ <https://intruniri.chisinau.md/?mod=assemblies&do=ShowCalendar&targetid=maincontent>

by days and hours with the specification of the name of the organizer, goal and place of assembly, number of planned participants and registration date. Each assembly can be displayed in its own separate page.

*Search engine*⁹

The engine allows the search through the whole database by using diverse filters regarding the assembly, such as type, place, date and time, organizer and other features.

*Online notification*¹⁰

This is an option for the organizers that allows the online submission of the notification. Given the legal framework, the online notification does not replace the regular procedure which requires the physical presence of the organizer. It can be used, so far, by organizers in case of planned and spontaneous assemblies, with informative function for the City Hall.

*Statistical reports*¹¹

Include automatically generated tables and charts regarding the dynamics of notified assemblies, based on various categories such as annual / monthly number of assemblies, most popular places, types of organizers, forms of assemblies. It also provides .csv format tables with all the information included in the data base.

⁹ <https://intruniri.chisinau.md/?mod=assemblies&do=ShowSearchForm&targetid=maincontent>

¹⁰ <https://intruniri.chisinau.md/#/?mod=meetings&do=ShowMeetingsRegistration&targetid=maincontent>

¹¹ <https://intruniri.chisinau.md/?mod=assemblies&do=Raportare&targetid=maincontent>

*RSS feeds*¹²

Automatic feeds about the upcoming assemblies registered on the platform, designed for subscribers who want to be automatically noticed about the assembly activity in the city.

Subscription

This feature is reserved to representatives of Police and other state services responsible for providing conditions for public assemblies. Subscribers (25 users in 2018) may consult in secured access notifications and other relevant documents regarding each declared assembly as soon as it is placed on the platform.

Legislation

The component includes all the relevant legislation, available one click away for any visitor.

Functions

Informative – Anyone interested can access freely at any time the platform and consult all the publicly available information on notified assemblies starting with 2011.

Transparency and Predictability – Organizers and interested persons can check online the availability of public spaces and can plan accordingly their assemblies.

Quick communication tool – All the subscribed institutions receive immediately via e-mail all the necessary data as soon as the notification has been registered. The public information on the notified assemblies is also immediately available to the public online and via RSS feeds. Until 2011, the communication between City

¹² <https://intruniri.chisinau.md/?mod=assemblies&do=ShowSearchForm>

Hall and public authorities was done through letters and lasted from a few days to a week.

Record keeping – The platform serves as an online database with all the data publicly available. Until 2011, the records and storage of information were kept only on paper.

Operation mode

The platform is operated by **one person without special IT skills**, who is the current representative of the City Hall responsible with public assemblies. In his absence, the responsibility is occasionally taken over by other civil servants from the same department.

The information is introduced on a daily basis, as the notifications are submitted, and the operator is **only required to fill-in the predesigned standard form** with information provided in the notification and the scanned copy of the notification. All the following processes are automatically carried on by the platform according to the default algorithm. All the data is stored on the City Hall's servers.

All the users (including the registered users and the public visitors) use the same web interface.

Organizers of public assemblies, are not required anything else other than what is prescribed by law (filling in and submitting the notification provided by the law, available for online downloading on the platform¹³).

A more detailed review of the platform features and results is provided in the "Report on the outputs of the <http://intruniri.chisinau.md/> platform, during 2011-2017"¹⁴, elaborated by

¹³ <https://intruniri.chisinau.md/?mod=meetings&do=ShowMeetingsRegistration>

¹⁴ <https://gromex.md/wp-content/uploads/2018/04/Raport-INTRUNIRI-ENG-web-2.pdf>

the Promo-LEX Association in 2018.

Challenges the LPAs face in managing the right to freedom of assembly:

- As the host of hundreds of assemblies held every year, the Chisinau LPA delegates too few units of personel to fulfill its obligations related to the right of freedom of assembly, such as registration of notifications, mediation of meetings of organizers of simultaneous assemblies, dialog and negotiation in case of conflictual situations during assemblies. The LPA of Chisinau has only one person in charge of public assemblies, who is sometimes assisted by other currently appointed employees, who lack the knowledge and skills needed to meet the requirements.
- In the majority of LPAs, the responsibilities to assist public assemblies are assigned to employees, who have other basic tasks. Most of these employees do not have the necessary knowledge and skills to provide qualitative services in the area of assisting the right to freedom of assemblies.
- The LPAs of small towns are in some cases unaware of the legal implications of the right to freedom of assembly or of the right itself.
- Some LPAs admit abusive aplication of the legal procedure to close public access during official ceremonies by simultaneously ordering unlawful blanket banning of the assemblies planned in the targeted area.





V. POLICING OF ASSEMBLIES

According to the data collected by the NPI, more than 82 000 police officers were involved in assisting mass events in 2017 (including public assemblies), of which nearly 47 000 assisted the public events in Chisinau. Taking into account the total number of participants in such events, 1 police officer assisted on average, 52 participants in public events throughout Moldova and 25 participants in Chisinau. In 2018, 1 policeman assisted, on average, 64 participants in the events all over the Republic of Moldova, and 28 participants in Chisinau.

POLICING RESPONSIBILITIES

The General Police Inspectorate (GPI) is the institution that fulfills the positive obligation of the state to protect peaceful assemblies. To this end, the Police have the tasks of ensuring, maintaining and restoring public order at assemblies. Another body with an increasingly important role in ensuring public order at assemblies is the Department of Carabineer Troops. Carabineers' attributions revolve around securing and restoring public order, offering mainly support, tactical decisions belonging to the police. The Carabineer troops have a military status, but they act under the administrative subordination of the Ministry

of Internal Affairs. The Carabineers execute policing attributions and provide operational support for Police during public assemblies, but they do not have decision making attributions in **strategic and tactical aspects**. The Carbineer conscripts are also responsible with guarding the buildings of diplomatic institutions, and in this context often interact with the assemblies held near by. Within the police, the responsibility of ensuring and maintaining public order at the assemblies lies with the National Patrol Inspectorate and the public order departments of the territorial inspectorates.

According to the legal procedure, the police is involved in assisting the assemblies, as soon as it receives the necessary information from the LPA, immediately after the registration of the notification. In practice, the police evaluate the risks and decide on the necessary measures to facilitate the assemblies both on the basis of the information received from the LPA and on that collected from open sources and from police sources. Virtually, the work of the Police is directed at ensuring the smooth running of assemblies and respect for human rights, as well as at finding and documenting violations and enforcing coercive measures, if necessary.

In June 2018, the Dialogue Police Service was created¹⁵, which aims at providing a means of communication between the police and participants in public assemblies. The service has to provide both the population and organizers with help and information on how to conduct the event. During the assemblies, the members of the service are visible, being equipped with blue vests bearing the inscription "Dialogue Police". The service is not an institutionalized structure and engages the employees of the General Inspectorate of Police and of the Department of Carabineer Troops subdivisions, especially HR specialists, psychologists, communicators and people with experience of interaction. According to the information provided by the GPI, the staff involved had received intensive training in communication in critical situations.

A few months' experience after the launch of the Service revealed that it is mainly involved in informing participants or distributing water in hot days, being particularly present at assemblies with a large number of participants. However, in critical situations, where it was necessary to carry on negotiations to unblock roads, stop assemblies or evacuate the participants from the assemblies, the role of negotiator was not taken up by representatives of the Dialogue Police Service, but by other representatives of the law enforcement agencies.

In fact, law enforcement agencies assist all the assemblies of which they know. Generally, the number of police officers or carabineers involved is proportional to the number of participants. In the case of anti-governmental

assemblies held near the state institutions, the presence of law enforcement forces becomes disproportionately heavy compared to ordinary situations.

COMMUNICATION WITH THE ORGANIZERS

Generally, if the assembly does not present any unusual situation, the contact of the police with the organizers and participants is minimal, or there is none at all. The police have no legal powers to restrict or limit the conditions of the assembly.

In case of dynamic assemblies (marches), the National Patrol Inspectorate has the practice of inviting the organizers to convene on the route, means of travel, duration and road sections, in which the traffic will be blocked, and the security measures required for the proper conduct of the assembly, for which the organizer assumes responsibility. The organizers do not complain about this stage, but in many cases, they disapprove of the negotiation and communication style of police representatives, considering it to be intimidating, superior and manipulative.

In the cases when Police suspects that the orderly conduct of the assembly might be affected they get in touch with the organizers before assemblies and warn the organizers of the need to avoid violations during the assembly. Police complain of lack of good faith in the case of a few organizers, who hold regular assemblies. According to the Police, the organizers do not have enough confidence that the event will be peaceful. They accuse the organizers of deliberately avoiding prior communication with the police.

In some cases when the planned assembly takes place around strategic objectives such as the Presidency or Parliament buildings, the State Protection and Guard Service contacts the organizers by phone and asks for additional explanations about the assembly.

In general, the police have a tolerant approach during the assemblies, leaving the events to their course, while the documentation and finding of violations is done post-factum. The police claim that interventions and the use of special means are applied proportionally only locally and at short intervals. A deficiency mentioned by some organizers is that law enforcement authorities hesitate to react and intervene when participants in the assembly are exposed to challenges, injuries or aggressive actions of third parties. Apparently the law enforcement does not apply uniformly the intervention procedures; the time and manner of intervention differs in different cases with similar situations.

On August 5, 2018, during a march that took place in the town of Orhei, the sympathizers of the Sor Political Party attacked several political opponents with brooms. The latter fled inside a store and were locked there for several hours, until the police secured their evacuation.

On October 21, 2018 the Democratic Party (ruling party) held an assembly in the Great National Assembly Square. During the same assembly, a few persons conducted a peaceful counter protest. The counter demonstrators entered

the crowd of the main assembly and shouted slogans against the ruling party leaders. The counter protesters were approached by the representatives of the Dialog Police and later by the Head of a Carabineer Unit and the Head of the Public Security General Departement of Police who led them outside the area occupied by the participants at the assembly of the ruling party.

On June 21, 2018 a group of parishioners were holding a silence protest in front of the Metropolitan Cathedral against the decision according to which their village priest was forbidden the right to hold divine service. At one point, the assembly was approached by an opponent who provoked a verbal altercation with the protesters, which resulted in impediment for the proper conduct of the assembly. The organizer asked the police officers who assisted the assembly to intervene and to move away the opponent, but the police refused to do so invoking the absence of physical violence. After prolonged debates between the organizer, policemen and a human rights defender who presented legal arguments for police intervention, the police finally moved away the opponent. In the case of the assemblies, held around headquarters of diplomatic missions, the organizers claim situations when the carabineers guarding the missions asked them to move a few meters away from the fence, although according to the law, the limitation of access in public spaces is only possible through the provision of the LPA during official ceremonies and repairs. The officials explain this situation by the claims of diplomatic

¹⁵ <http://politia.md/ro/content/politia-se-va-afla-la-datorie-timpul-desfasurarii-protestului-de-maine>

missions that conducting assemblies in the immediate vicinity of the diplomatic missions' premises, violates the Vienna Convention of 1963 on consular relations¹⁶.

Police officers regularly receive tactical training and develop their communication skills. However, the organizers and participants systematically complain about poor communication and negotiation skills of law enforcement officers.

In the case of smaller towns, the organizers also complain of insufficient legal training of law enforcement officers. *In a case reported by an assembly organizer, in a small locality, the police requested the registration certificate of the organizer, and in another case, the permit issued by the LPA to conduct the assembly.*

POLICING EQUIPMENT

The manner and conditions for the use of force and special means is regulated by the Law 218 of 19.10.2012 on the use of physical force, special means and firearms. The intervention equipment usually displayed by law enforcement (both police and carabinieri) includes batons, teargas sprays, gas masks and fire extinguishers, anti-bullet vests and pistols.

During the recent years, the Police and the Carabinieri have adopted a less intrusive attitude and, in particular, provided for preventive measures. The latter included blocking road traffic in areas adjacent to assemblies, cordons of law enforcers to separate counter-demonstrations and cordons or metal fences around official buildings such

¹⁶ <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=357020>
<http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=357016>

as the Government and the Parliament. In 2017 and 2018, there were several situations when law enforcement agencies provided disproportionately large preventive measures.

On September 1, 2018, a consortium of associations, promoting the unification of the Republic of Moldova with Romania, celebrated the 100th anniversary of Romania's Unification with Bessarabia. Having found out that the three buses used by the Romanian participants to come to Moldova had been detained by the police on suspicion of having explosive substances on board, about 200 demonstrators, including minors and women, decided to continue the demonstration until the release of the buses. When the night fell, the regular night lighting was not switched on at the place of the assembly (the Great National Assembly Square).

The protesters waited in the dark until midnight (24:00), when the buses were able to take the participants on board, after law enforcers informed the presence of explosive substances. Throughout the whole time, special police units armed with M16 automatic guns and Glock guns assisted the assembly. A trend that intensified in 2017 and 2018 is the excessive equipping of the law enforcement officers assisting the assemblies. Thus, although the assemblies are peaceful and show no signs of violations, trained policemen and carabinieri wear tactical equipment (riot body, arm and knee protection, shields, helmets and balaclavas). This contributes, on the one hand, to discouraging possible aggressive intentions, but it also intensifies the tension at peaceful assemblies and instigates participants' hostile attitudes and actions towards the police.



On May 19, 2018, law enforcement officials closed, for several hours, access to the city center on an area along 10 road intersections (length) and 3 intersections (width) to facilitate the movement of the LGBT Pride. The police and the Carabinieri formed live cordons along a closed perimeter and prevented the access of counter-demonstrators or of people, who displayed a violent behavior. Blocking of the streets for several hours raised hostile reactions from the passers-by directed against LGBT community.

On the evening of June 25, 2018, about 1 000 people protested peacefully against the invalidation of local elections in Chisinau. The police blocked the traffic within four road intersections from the assembly venue to the Supreme Court of Justice. On the morning of June 26, 2018, another peaceful protest (about 100 protesters) against the invalidation of the local elections took place in front of the Chisinau City Hall. Following an incident between a protester and a driver, the police blocked the traffic on the main street of the city on a length of 15 intersections. The usual practice provides for traffic blocking strictly in the assembly area.



The most resonant case of use of force took place on the morning of August 27, 2018, when policemen and carabinieri, wearing tactical equipment without individual identification marks, forcibly evacuated about 70 peaceful protesters of the (Resistance movement ACUM) from the Stefan cel Mare Square in Chisinau, where official events, dedicated to the Independence Day had to take place. The intervention of law enforcers was based on the mayor's provision for temporary closing of public access and banning of any assemblies during the official events. The intervention occurred after the protesters refused to comply with repeated requests of the city hall representatives and the police to evacuate the place. Plain clothes policemen also participated in the forced evictions of protesters. Several people complained of injuries, and a visually impaired person required medical assistance immediately after the intervention. For several hours, during the official events, the area was closed to public access, and the demonstrators continued the protest at a distance of about 100 meters in front of a police cordon.

During the period of 2017 and 2018 the only used special equipment was the teargas sprays.

On May 19, 2018, during the LGBT Pride law enforcement on the segment of direct confrontation with the counter-demonstrators, the police used teargas to respond to aggressive attacks. During the LGBT pride on May 19, 2018, several people with aggressive behavior have immobilized by the police and moved away by force from the assembly. According to the Police, the actions and tactics of intervention used at public assemblies reside both in the obligation to protect peaceful assemblies and to ensure the security of participants, as well as in the obligation to protect the persons with public dignity, or the premises of strategic importance. Therefore, planning assistive measures implies anticipating any scenarios, including terrorist threats. The special means used are standardized, their use is avoided to the maximum and it is intended to avoid direct physical contact with the participants in the assemblies, which can lead to injuries.

Special units that operate, usually outside the visible area of the assembly, are equipped with passive defense equipment such as launchers for teargas, luminous and acoustic cartridges, including specially adapted machine guns of AK47 model, which are only equipped with blind bullets. In the second half of 2018, law enforcement officers began to patrol public spaces wearing M16 machine guns and Glock pistols during public assemblies and during the presence of official delegations. The legislation of the Republic of Moldova forbids applying firearms for the restoration of public order and the European practice shows that such measures are applied in the event of

imminent terrorist threats, which apparently does not apply in the case of the Republic of Moldova.

In October 2018, the Ministry of Internal Affairs received, as an official donation from the Turkish state, two *Intervention Vehicles against Social Incidents (TOMA)*¹⁷ equipped with water cannons, foam, dye, teargas spray and fire extinguisher.

USE OF FORCE

Most of the interventions of law enforcement officers during the period under review had, in principle, legitimate purposes. However, the opportunity and the way of applying force and special means is questionable. During the reported period, physical force was used on several occasions, although non-violent persuasive actions that included dialogue and negotiation were not always exhausted. In most cases, the force was moderate and applied in agglomerations or mêlée by the command line cordons with the purpose to unblock a road or to determine the assembly participants to move.

Although the law forbids the use of force against minors, women, the disabled, and the elderly, neither the police nor the carabinieri have taken this aspect into account and applied force equally to all the above categories.

Prior to the use of physical force, the police normally issued verbal warnings, including through sound amplification systems, and as a rule, gave participants time to react.

¹⁷ [https://en.m.wikipedia.org/wiki/TOMA_\(vehicle\)?fbclid=IwAR3wRfWyn7RJhfnglt1FpKjIL5ZvDb7ScMfzL0cp8j9ro4rZZ3_praFgS70](https://en.m.wikipedia.org/wiki/TOMA_(vehicle)?fbclid=IwAR3wRfWyn7RJhfnglt1FpKjIL5ZvDb7ScMfzL0cp8j9ro4rZZ3_praFgS70)

IDENTIFICATION OF LAW ENFORCEMENT OFFICERS

A particular issue related to law enforcement is establishing the identity of the law enforcers. Regular uniforms include an arm badge of the department to which the officer belongs. Uniformed law enforcers do not wear badges with their name or identification number. Uniformed law enforcement may legitimate themselves, but usually only after being asked by the interlocutors. In the absence of individual legitimation, one has only the option of facial recognition of the officer. When law enforcers wear tactical equipment, there is no possibility of identifying the officers. Most of the times, while their faces are covered with balaclavas, even the arm badge of the law enforcers' department is not visible, since it is covered by protection elements.

Another widespread practice at the assemblies is the presence of police officers in plain clothes. The plain clothes policemen are generally divided into two categories: public order officers and operative police officers. Public order police generally have a clearly defined role involving methods of observation, dialogue and documentation.

The role of operative police officers is to identify, reveal and isolate risk situations, outbreaks and instigators. However, their obvious presence among the participants causes more questions and arouses suspicions. Their involvement in enforcement measures is particularly questionable, as they are not identified as law enforcement officers nor do they display any distinctive visual elements. In addition, their interventions create confusion among the peaceful participants, who might

consider them violent instigators to whom they should offer resistance in legitimate defense.

In 2017, in a protest organized by Falun Gong activists in front of the Chinese Embassy in Chisinau, about 10 people in plain clothes (alleged law enforcers) stood between the protesters and the Embassy headquarters. Thus, people in civilian prevented the visualization of the posters, containing messages addressed to a Chinese official delegation at that time at the Embassy.

The Policemen may be hold accountable with disciplinary, administrative or criminal sanctions provided by law.

RECORDING THE EVENTS AND MEDIA COVERAGE

According to the law on assemblies, any person has the right to take photos or make video recordings during public assemblies. The recording regime is free; anyone can make recordings regardless of whether they are media representatives, organizers, participants, policemen or members of the public.

Law enforcers do not usually limit the presence of journalists or monitors in the assemblies, nor do they require any special permit to document the assemblies. Mass media can report freely on assemblies, including through such instruments as remote civilian drones.

Exceptionally, there are cases when law enforcement authorities prohibit filming. In 2018, in the city of Ungheni, a carabineer

forced a minor to delete the images he had taken on his mobile phone during an assembly.

On July 27, 2018, the Political Party Justice and Truth (PPDA) held an assembly in Ungheni along with counter-manifestation of the opposition. During the assembly, the opponents of the PPDA became very agitated and verbally attacked¹⁸ those persons, who photographed and filmed the manifestation. At a certain point, one of the carabinieri, who ensured public order, asked a minor (aged 16), who was taking pictures of the event, to show him the pictures. The Carabineer forced the minor to delete all the pictures (except two photos) he had recorded during the assembly.

A situation of interference with the media, occurred on October 21, 2018 in Chisinau during an assembly of the Democratic Party (ruling party), when a carabineer forced out¹⁹ two accredited journalists and prohibited them to enter a so called "secure zone", although the devices of other journalists were installed in the "secured area". In the process, the Carabineer took the badge of one of the journalists and threw away

¹⁸ <https://www.facebook.com/goreaveronica/videos/1778992798848677/> <https://www.facebook.com/goreaveronica/videos/1779003298847627/>

¹⁹ https://www.facebook.com/stefangrigorita/videos/2177395835604794/?_tn=dlCH-R-R&eid=ARBZy_5mbQ94PWzwmudGKWlpEf66Jf6BEUEda09ETyYAtYUXnWtvITctj9iNQ4Xf7u365oFxlumj2PB&hc_ref=ARRoINmJ8OXszWKX2s51KoOfOJSQcmTzOTpmBVY23NaDtAVUC1A_f5rTu6PCLZaRMa8

the phone of the other. In the beginning of the assembly the head of the State Protection and Guard Service removed an accredited media representative from the area where the Governmental officials were present.

In their turn, law enforcement officers avoid cameras and often turn their backs when they are filmed or photographed. Law enforcement often ask their interlocutors not to film them. There are situations, where the participants do not agree to be filmed, but these cases are relatively few and usually result in no consequences for either party. In 2018, there were also cases when journalists and monitors were physically obstructed by organizers' bodyguards and were denied access to the immediate vicinity of the organizers throughout the assembly.

On August 26, 2018, during the assembly of the Sor Party in the center of Chisinau, the bodyguards the Sor Party aggressed physically the journalists and monitors who tried to approach the party leaders. The police also document public assemblies, the recordings can be used as evidence and are attached to files in contravention proceedings. According to the information provided by the General Police Inspectorate, depending on the installed devices, the stored images are subject to departmental regulations, which establish the regime of their storage, archivation or destruction; the images collected with portable cameras are destroyed, if there is no violation.

The main worrying media-related phenomenon is the selective and biased coverage of assemblies by some media institutions. The purpose and nature of the

assembly, as well as the number of participants are among the most misinterpreted elements. This information is distorted and obviously tendentiously interpreted to meet the political interests of media owners. In some cases, the media simply ignore the assemblies, even though they have a certain importance and impact on the public.

Under the law, police officers are subject to disciplinary, contravention or criminal sanctions for violation of the law during assemblies. In the period concerned, no officer has been subject to sanctions for breach of law in the actions undertaken to assure and restore public order.

The organizers generally use online tools and social media without any impediments and the legislation does not impose any prohibitions or limitations in this respect. Users of online tools and social media have repeatedly claimed that private chat groups are penetrated and monitored by specialized services which inform the law enforcers about the content of private conversations. Also, cases have been reported when in unclear circumstances, user accounts belonging to the organizational groups of different assemblies have been deleted.

Challenges for policing of assemblies:

- Insufficient communication skills of the carabineer troops and the police, especially outside of Chisinau.
- Limited negotiation skills. The police are not always able to establish constructive dialogues with the organizers of the assemblies.
- *Law enforcement officers are permanently exposed to a work regime that involves many threats and stressors. Given that neither the Police nor the Carabineers have an institutionalized stress management system, there is a high probability of uncontrolled behavior in relation to the peaceful population participating in public assemblies.*
- According to the Police, there are cases where organizers abuse of the legal provisions; One of the most frequent deviations is the abusive interpretation of the notion of spontaneous assembly, which allows the organizers to evade the notification procedure. Another deviation of the organizers is changing the form and manner of the assembly: changing the route, spontaneously declaring a march, avoiding cooperation with the authorities. In some cases, the organizers, designated in the notifications, are different from the people who lead the assembly.
- *According to the draft law that is in an advanced approval procedure, starting with 2020, the Carabineers will take over the powers of ensuring and restoring public order at the assemblies. Carabineers are a militarized structure undergoing a process of professionalization. The military staffs that are involved in ensuring public order do not*

have the knowledge and training necessary to interact effectively with the participants in the assemblies. This may likely lead to violations of the right to free assembly by the carabineers. On the other hand, the professional staff have a militarized profile that could pose problems in communication with the civilian population. Intervention measures that are predominantly focused on tactical and physical methods and less on negotiation and dialogue could also be an issue.

VI. CRIMINALIZATION OF PROTESTS



Violation of the law on assemblies is subject to sanctions provided by the Criminal Code and Code of Contravention of the Republic of Moldova.

The Code of Contravention provides in article 67 sanctions for violation of the right to assembly in the following aspects:

1. *Conducting of a assembly without filing a prior notification*²⁰
2. *Preventing the organization, conduct, participation or obliging to participate in an assembly*²¹
3. *Failure of the assembly organizers to meet the obligations stipulated by the law*²²
4. *Holding a weapon while attending the assembly*²³.
 - a. *Participation in the assembly, holding explosive or prohibited substances, objects which endanger human life or*

²⁰ Is sanctioned with fine of 47- 63 EUR

²¹ Is sanctioned with fine of 63-78 EUR

²² Is sanctioned with fine of 31-47 EUR

²³ Is sanctioned with fine of 156-234 EUR and deprivation of the right to hold a weapon from 3 months to 1 year

*health*²⁴

5. *Preventing access to the buildings in the immediate vicinity of the assembly place*²⁵

During the period covered by the current report, the Police documented a total of 17 contraventions based on article 67 of the Code of Contravention all sanctioned with fines (11 contraventions in 2017 and 6 contraventions in the first eight months of 2018) as follows. The authorities do not have a system for keeping records of the sanctions, but according to available information the large majority of sanctions were canceled by the justice courts as a result of the appeals.

Criminal sanctions for violation of the right to freedom of assembly are provided for acts that represent aggravating circumstances for *preventing the conduct, participation or obliging to participate in an assembly*. Thus article 184 of the Criminal Code provides that:

²⁴ Is sanctioned with fine of 156- 234 EUR or administrative arrest for 5-15 days

²⁵ Is sanctioned with fine of 63-78 EUR



1. **Illegal prevention of the assembly conduct, of the participation or obliging to participate in an assembly**²⁶:

- a. Committed by an **official**;
- b. Committed **by two or more persons**;
- c. **Accompanied by violence non - dangerous** for life or health,

2. Same action²⁷:

- a. Committed **with the use of weapon or other objects**, which have served as a weapon or have been specially adapted for injury to bodily integrity or health;
- b. **Accompanied by violence dangerous** for life or health;
- c. **Resulted in causing large damages**;
- d. Resulted in other serious consequences

During the period covered by the current report, there have been no criminal cases initiated for actions which fell under the article 184 of the Criminal Code.

The sanctions imposed on the organizers and participants in public assemblies do not refer only to the violation of freedom of assembly. Sanctions may be applied to acts of hooliganism, outrage, or other offenses that apparently do not have a direct connection with public assemblies. *For example, in October 2018, Andrei Donica was declared guilty of committing the offense of hooliganism (article 287 (1) Criminal Code), receiving a suspended sentence of one year, as on 30.09.2016, he spilt*

26 Is sanctioned with fine of 1430-1950 EUR or community service from 180 to 240 hours, or imprisonment for up to 2 years.

27 Is sanctioned with fine and with imprisonment for up to 5 years

a milk bucket over the Minister of Finance, who happened to pass by the protest conducted by Andrei Donica in front of the Government.

Against third persons who intervened at public assemblies, during 2017-2018, there were 10 criminal cases initiated under article 285 of the Criminal Code (*Mass disorder*) and 1 case under article 349 of the Criminal Code (*Threat or violence against an official person*), out of which 2 cases were referred to the court.

In August 2018, a criminal case was opened on suspicion of preparing mass disorder, after the General Inspectorate of Police found that some people placed video recordings on their Facebook accounts calling for active participation in mass riots, use of violence, pogroms, arson, destruction of goods, applying weapon, urging to violent or armed resistance to the representatives of the authorities, implicitly preparing to commit such acts. The General Inspectorate of Police refused to publicly present evidence displaying the connection of these posts with the organizers of the target assembly.

All criminal cases initiated in the reported period, are still under procedure and court decisions have not yet been pronounced in their respect.

In the Republic of Moldova, the judicial courts are not seen as neutral and objective. The level of trust of the population in the judiciary system is generally very low²⁸, exceeded by almost all the structures and institutions except the Government, Parliament and political parties.

The Ombudsman monitors the human rights situations in the country, including the right

28 http://ipp.md/old/public/files/Barometru/Magenta_BOP_final_v3_27_apr.pptx

to freedom of assembly. The latest report concerning the freedom of assembly reflects the period up to 2016. The Ombudsman has not produced since, any thematic report on freedom of assembly concerning the period discussed by the present report. Still, the Child defender from the Ombudsman Office has intervened²⁹ in a Parliamentary session making recommendations to introduce administrative sanctions for the participation of children in public manifestation. An official proposition has not been instrumented, and consequently it is yet unclear whether and what legal form it will take on this proposal.

ARTICLE OF THE LAW (CODE OF CONTRAVENTION)	YEAR	
	2017	2018 (JAN-AUG)
article 67 (1)	9	5
article 67 (2)	1	0
article 67 (3)	1	1
Total	11	6

ARTICLE OF THE LAW (CRIMINAL CODE)	YEAR	
	2017	2018 (JAN-AUG)
article 184 (Violation of the right to freedom of assembly)	0	0
article 285 (Mass disorder)	3	7
article 349 (Threat or violence against an official person)	0	2
Total	3	9

29 <https://www.privesc.eu/Arhiva/84203/Sedinta-Parlamentului-Republicii-Moldova-din-1-noiembrie-2018?fbclid=IwAR3bKfLD-WCfkXXe8U4lrptKyxIXk9MI4-ARvtG1aINdg5fvXlofNOvdVc>



VII. RECOMMENDATIONS

Legal framework

- Maintain the existing legal framework. Develop regulations and instructions for the LPAs, Police and Carabineers, detailing the application of the provisions of the law on assemblies.

Organizers

- Refrain from the practice of submitting notifications for assemblies that will not be held and for assemblies planned for many years ahead, for an unreasonable term (80 years in advance).
- To conduct assemblies in good faith in accordance with the legal framework and to refrain from actions that endanger the legitimate right of others to assemble peacefully.

Local Public Administration Authorities

- Avoid deviations from the legal procedures, especially those related to banning, prohibiting, dispersal of an assembly or closing the public access to spaces during official ceremonies.
- Develop the skills of the staff in charge of public assemblies in the field of legislation, communication, dialogue, mediation and negotiation to facilitate communication

with the organizers of public assemblies and law enforcement authorities and to assist public assemblies more effectively.

- Municipalities that host annually a significant number of assemblies (Balti, Comrat, Cahul, Ungheni, Orhei, Singerei, Edinet) should replicate the positive experience of on-line platform <http://intruniri.chisinau.md/> applied in the municipality of Chisinau for the management of information about the public assemblies declared in the locality.
- City Hall of Chisinau should increase the number of staff responsible for the management of public assemblies to at least 4 persons, well-trained in legal aspects, communication, negotiation and mediation skills to carry out the responsibilities arising from the Law on Assemblies.
- City Hall of Chisinau should be proactive in identifying solutions for accommodating public spaces in Chisinau to conduct several simultaneous assemblies. Develop accommodation plans for the Great National Assembly Square (the most requested assembly place in Chisinau) in such a way that they be able to host at least two simultaneous assemblies,

without creating sound or movement impediments for any of the assemblies.

- City Hall of Chisinau should develop together with the National Inspectorate of Police a uniform system for keeping record of public assemblies in order to obtain a clearer vision of the dynamics and trends of the conducted assemblies.

Police and Carabineers

- Ensure an efficient system of law enforcers' training (especially outside the municipality of Chisinau) in the field of freedom of assembly, respect for human rights, communication and non-violent interaction with organizers and participants in the assemblies.
- Develop and approve a set of assistive and intervention procedures for public assemblies based on respect for human rights, non-violent and non-intrusive interaction with participants in assemblies. Tactical and physical interventions should be exceptional measures, only if all the other measures are exhausted.
- Strengthen the capacity of the Police Dialogue Service for non-physical interventions in difficult situations that occur during public assemblies. Develop the communication, mediation and negotiation skills of the staff.
- Refrain from displaying weapons or firearms, in particular automatic weapons, during peaceful assemblies.
- Enforce the legal provisions in a non-discriminatory way and guarantee the security and integrity of the person, regardless of his / her social or political status or political affiliation.

- Refrain from disproportionate measures (related to the number and equipment of law enforcers) used against protestors in peaceful assemblies.
- Refrain from applying unilateral measures, without having the decisions of the representative of the local public administration authority or of the court that is necessary for the intervention in public assemblies.
- Use in the actions of ensuring, maintaining and restoring public order in public assemblies, only uniformed police officers that are easily identifiable and refrain from involving police officers in civilian clothes.
- Refrain from the use of law enforcers in tactical equipment in peaceful assemblies, as their presence incites spirits and causes a tense atmosphere.
- Ensure a form of individual identification of law enforcement officers, such as an identification number applied to the uniform and / or on the head, and make the identification information be visible during the assembly.
- Develop together with the LPAs a uniform system for recording public assemblies in order to have a clearer understanding of the dynamics and trends of the conducted assemblies.
- Apply the decisions of the LPA for temporary closing of public access to certain public spaces only in good faith and strictly in order to facilitate the conduct of the official events, for which the limitations was provided.

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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.



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