

**Rallies and Demonstrations
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Unlawful and violent assemblies

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AGENDA

- ODIHR's assembly monitoring work**
- standards and guiding principles**



Importance of Freedom of peaceful assembly

- A key feature of any democratic society
- Allows groups and individuals to voice their opinions in public places (citizens of both sexes, minority or marginalized groups and including unpopular ideas)
- Interlinked with other important rights and liberties
- The approach authorities take in the regulation and facilitation of peaceful assemblies can be considered a litmus test of their overall respect of human rights.



The Framework

Article 21, International Covenant on Civil and Political Rights: *The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order, the protection of public health or morals or the protection of the rights and freedoms of others.*



Enshrined in international HR law

- Universal Declaration of Human Rights, Article 20(1)**
- International Covenant on Civil and Political Rights, Article 21**
- International Convention on the Elimination of All Forms of Racial Discrimination, Article 5**
- Convention on the Elimination of All Forms of Discrimination against Women, Article 7**
- United Nations Code of Conduct for Law Enforcement Officials**
- United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials**



Enshrined in regional HR law

- European Convention on Human Rights, Article 11**
- Charter of Fundamental Rights of the European Union, Article 12**



OSCE Commitments

- Commitment to guaranteeing freedom of peaceful assembly to every individual without discrimination (Copenhagen 1990, Paris 1990)



ODIHR's Mandate

- **Support of participating States in the implementation of their commitments** on freedom of peaceful assembly and is based on:
 - human dimension commitments of the right to freedom of assembly and speech (Helsinki 1992, Budapest 1994, Oslo 1998, Maastricht 2003)
 - special role of ODIHR as a point of contact for information provided by participating States (Rome 1993)
 - expression of determination by participating States to co-operate within the OSCE and with its institutions and representatives in a spirit of solidarity and partnership in a continuing review of implementation (Istanbul 1999)

Activities in the area of FoA

- Monitoring**
- Capacity building**
- Legislative assistance**
- Development of tools and setting benchmarks**



Capacity building

- Conducts trainings** on FoA standards and assembly monitoring (Armenia, Georgia, Kazakhstan, Moldova and Serbia)
- Develops tools:** *Handbook on Monitoring Freedom of Peaceful Assembly, Human Rights Training Guide to Policing Assemblies*



Legislative Assistance

- ▣ **Reviews draft and existing laws** upon request to support OSCE participating States in their efforts to bring their legislation into line with key OSCE commitments



Development of Tools and Standards

Guidelines on Freedom of Peaceful Assembly (jointly with the CoE Venice Commission)

- key **benchmark** and reference point to assess compliance with international human rights standards

Panel of Experts on FoA: Established in 2006 as an advisory and consultative body



WHY MONITOR?

- Monitoring provides a vital source of **independent information** on the activities of both assembly participants and law-enforcement officials that may be used to inform public debate and serve as the basis for dialogue between state and local authorities, law-enforcement officials and civil society



Monitoring

- **ODIHR Observes assemblies** across the OSCE area to assess the status of implementation of relevant OSCE commitments
- **Identifies** gaps and challenges as well as good practices
- **Publishes thematic reports** on the key findings and recommendations



Past and current Activities

Monitoring of Freedom of Peaceful Assembly in Selected OSCE Participating States (Cycle 1)

- Report launched in November 2012
- Observation from May 2011 - June 2012
- 27 assemblies in 11 participating States

Including observing three protests against the WTO Ministerial Conference in Geneva in December 2011 , against the World Economic Forum in Bern and Davos in January



Past and current Activities

Cycle 2

Report launched in December 2014

Observations May 2013 – July 2014

26 assemblies in 9 participating States



Past and current activities

Cycle 3

- Monitoring exercises in 5 OSCE participating States so far this year: in Ireland, Cyprus, Germany, Austria and Latvia



ASSEMBLY MONITORING METHODOLOGY



SELECTION CRITERIA

- Assemblies that could present specific challenges for the authorities and/or the organizers due to their nature, size and/or complexity
- Assemblies convened by minority groups espousing views or positions that are unpopular with, or are seen as controversial by, mainstream society (eg. LGBTI Pride Parades);
- presence of counterdemonstrations and the potential of a resulting conflict between opposing groups;
- the need to ensure a balance between safety and security considerations, on the one hand, and respect for freedom of peaceful assembly, on the other (eg. Summits).
- All related and parallel assemblies are observed.
- Geographical balance and the coverage of a variety of different contexts across the OSCE area.

MONITORING EXERCISES

- No comprehensive conclusions of the situation of freedom of peaceful assembly in given States but a series of case studies to identify and highlight some of the common trends and patterns related to the enjoyment of freedom of peaceful assembly observed across the OSCE area



INFORMATION – GATHERING

- gathering of **first-hand information** by ODIHR observers who witness the conduct of, and interaction among, participants in assemblies, law-enforcement agents and other relevant state and non-state actors (e.g., representatives of local self-government bodies etc.)



INFORMATION – GATHERING

- Monitors' observations, whenever possible, complemented by information gathered at **meetings** with representatives of the relevant authorities, assembly organizers, civil society organizations, NHRIs, lawyers and others who can provide background information on freedom of peaceful assembly and specific information on the monitored events.



THE TEAM

- Monitoring teams: ODIHR staff trained in assembly-monitoring techniques and/or members of the OSCE/ODIHR Panel of Experts on the Freedom of Assembly.
- Local consultants and security experts contracted to conduct background research and risk assessment in preparation for the monitoring exercise.



Code of Conduct for Freedom of Assembly Monitors

IMPARTIALITY
NON-INTERVENTION
PROFESSIONALISM
DISCRETION AND CONFIDENTIALITY
VISIBILITY AND TRANSPARENCY
SAFETY AND SECURITY
DO NO HARM
WHEN IN DOUBT, USE YOUR BEST
JUDGMENT!



OBSERVATION FOCUS

- **Legal framework analysis:** applicable legal and regulatory framework affecting the enjoyment of freedom of peaceful assembly, but no full-scale comprehensive analysis of the degree to which the relevant laws comply with international standards and OSCE commitments.
- **Events and activities that take place in public spaces in the run-up to and during assemblies.** Events following an assembly fall beyond the scope of the monitoring exercise.

OBSERVATION FOCUS

Regulating Freedom of Peaceful Assembly – main definitions and scope of legal framework

Prior restrictions and procedural issues

- notification/authorization requirements
- restrictions imposed before assemblies
- facilitating simultaneous assemblies, including counter-demonstrations
- decision- making and remedies
- duties and responsibilities of the organizers



OBSERVATION FOCUS

POLICING OF ASSEMBLIES

- Engagement and communication by the police with assembly organizers and participants
- Co-operation and co-ordination between the police and other authorities
- Policing of assemblies that do not comply with legal requirements
- Policing demonstrations and counterdemonstrations
- Use of force, detention and containment, dispersals



OBSERVATION FOCUS

Monitoring and reporting on freedom of peaceful assembly: access and restrictions

The right to monitor public assemblies is part of the more general right to receive information (a corollary to the right to freedom of expression)

The right to peaceful assembly not only covers the right to hold or participate in an assembly, but also protects the rights of those monitoring peaceful assemblies (UN SR FoAA)



Key standards

Only peaceful assemblies are protected

The term “peaceful” should be interpreted to include conduct that may annoy or give offense, or that temporarily hinders, impedes or obstructs the activities of third parties



Key standards

It has to be ensured that the message the assembly seeks to convey can be effectively communicated to those to whom it is directed, in other words, within “**sight and sound**” of the target audience.

Freedom of peaceful assembly also includes the right to protection against violent counter-demonstrators. Even in cases when counterdemonstrations may give rise to public safety and security considerations, the authorities should generally seek to facilitate the holding of an assembly and related counter-demonstrations within sight and sound of one another. The state has to ensure **adequate policing resources to facilitate** both assemblies.

Guiding Principles

The **presumption in favor of holding assemblies**

As a fundamental right, freedom of peaceful assembly should, insofar as possible, be enjoyed without regulation.

Where an authorization system is retained, it should be based on a legal presumption that the authorization will be issued and that any refusal of authorization will be based on clearly defined criteria based on time, place and manner considerations and will be subject to prompt judicial review.

Unlawful vs. violent assemblies

Assemblies in violation of applicable laws in that sense that the organizer fail to notify the authorities should nevertheless be **accommodated and facilitated** by law enforcement personnel as long as they remain peaceful.

Instances of violent or unlawful acts by participants in otherwise peaceful protests should be dealt with **individually** and should not lead to the termination of the entire assembly.

Guiding Principles

Legality, proportionality, non-discrimination

Restrictions on assemblies must only be imposed where there are compelling arguments to do so.

Any limitations imposed on assemblies, in law or in practice, should not be based on grounds other than those permissible in accordance with international law and must be necessary, proportionate and non-discriminatory.

Guiding Principles

The state's positive obligation to facilitate and protect a peaceful assembly

The official duty to maintain public order during assemblies, including by protecting participants, is a central responsibility of the state

Assembly organizers are not to be held responsible for the maintenance of public order - which would essentially ask them to replace law-enforcement bodies - and assembly organizers and participants are not held liable for the unlawful conduct of other people.

Thank you for your attention!

