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MONITORING THE RIGHT TO FREE ASSEMBLY

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2017
2018 ARMENIA

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



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I. EXECUTIVE SUMMARY

The situation with enjoying the right to freedom of assembly in the Republic of Armenia has in recent years undergone a number of significant albeit at times twisted changes. Numerous civic and political initiatives emerged that are among the most active organizers of peaceful assemblies with an agenda that spans social, legal and environmental as well as political issues. Since the adoption of the *Law on Freedom of Assembly* in 2011 the legal framework currently in force in the Republic of Armenia (RoA) *de jure* affords ample opportunity for enjoying the right to freedom of assembly. However, protection of the said right on many occasions is dependent on the attitude of the powers that be at that moment and on political advisability. The issue becomes more prominent in case of the assemblies that are held at the time of oppositional political protest rallies as well as of high-profile developments in the public life.

Notwithstanding the existing favorable legislative framework, the several draft laws to amend the peaceful assemblies-related legislation, which have been put into circulation in 2017-2018, give serious concern. These draft laws aim to make the restrictions, which are imposed on the right to freedom of assembly by law, even more severe. The

said drafts contradict in many ways the OSCE/ODIHR *Guidelines on Freedom of Peaceful Assembly* and relevant judgments of the European Court of Human Rights (ECHR) concerning the protection of spontaneous assemblies and requiring sufficient basis for restricting public assemblies.

The current administration of assemblies for the most part ensures free enjoyment of the right to freedom of assembly. It should be noted that in 2017-2018 the Authorized Bodies did not make decisions to prohibit assemblies, while decisions to place restrictions on assemblies were very few. Nevertheless, administrative and criminal prosecution of assembly participants and organizers in recent years has made an adverse impact on protection of the right to freedom of assembly. This has been reflected in imposition of disproportionate administrative fines, in protracted criminal trials and in limited effectiveness of judicial and extra-judicial mechanisms for protection of the right. Observed were numerous instances of unlawful police interference in assemblies, of needless and excessive use of force and violence against assembly participants and reporters. At the same time it should be noted that after the *Velvet Revolution* of April 2018 police interference started to be gradually

replaced with more reserved and professional approach compared to the earlier periods not covered in this report. A positive style of police administration regarding assemblies and accumulation of experience of and improvement of skills in negotiation can make a significant contribution to strengthening the protection of the right to freedom of assembly. Nevertheless, so far there are no results of the criminal investigation of numerous cases of disproportionate interference with and violence during assemblies that occurred in 2016-2018. Those are necessary for providing a comprehensive assessment of overall protection of the right to freedom of assembly in the Republic of Armenia after the change of power.



II. BACKGROUND AND CONTEXT

According to the data provided by the RoA Police, in 2017, in the Republic of Armenia there were about 660 assemblies, including 74 in Yerevan. Over the same period of time, 332 assemblies were observed during the monitoring conducted by Helsinki Committee of Armenia. 262 of those assemblies took place in the period of time from 5 till 31 of March, i.e. during the RoA parliamentary election campaign. Assemblies were held in all regions and in most major communities of the Republic of Armenia. In addition to the election campaign-related assemblies, also observed were 70 assemblies in Yerevan, including 44 rallies, 9 marches and 17 rallies-marches.

121 assemblies were observed in January-June 2018. Of those, 70 assemblies were held in the cities of Yerevan and Gyumri in April within the framework of the movement launched by *My Step Initiative (the movement is known as 'Velvet Revolution')*. For the same period of time, according to the Police data, the number of assemblies held in Armenia is 958.

The nature of majority of the assemblies that were observed in 2017 was political and they were organized by the political parties and the alliances of political parties taking part in the parliamentary elections. The largest number

of assemblies was staged by the Republican Party of Armenia¹. Assemblies were conducted both in the open air and in various buildings. In the course of the election campaign Helsinki Committee of Armenia also observed the assembly, which was staged by the Armenian Revolutionary Federation – Dashnaksutiun Party on March 30 and which had the largest number of participants in the assemblies conducted in 2017 (*up to 9000 participants*).

During 28 assemblies their participants made social and legal demands of improving the taxation field and raised issues related to employment and social status. The most active organizers of such assemblies were relatives and supporters of *Sasna Tsrer (the Daredevils of Sassoun) group members², parents of the military servicemen who died in the armed forces in peacetime, former land users of Dalma orchards in Yerevan, former employees of Nairit factory, retired civil aviation pilots*

¹ The Republican Party of Armenia (RPA) was a ruling party in the Republic of Armenia up to April 2018.

² On 17 July 2016, the *Sasna Tsrer* ("Daredevils of Sassoun") armed group seized the Patrol Police regiment, which is located in Erebuni district in Yerevan. During the entire period of the seizure spontaneous mass rallies were staged in Yerevan. On 31 July, the armed group members surrendered and were arrested.

and other groups with common social or legal interests. In October-November 2017, students from Yerevan State University and from other universities (*For the Development of Science Initiative*) staged numerous rallies and marches demanding that the right to academic deferment of military service should not be abolished. In 2018, this Initiative was succeeded by the *YSU Restart Initiative* that continues movement for reestablishment of academic deferment of military service.

A significant part (93) of observed assemblies in 2018 were organized in March-May 2018 by a number of opposition forces (*Yerkir Tsirani/Apricot Country* political party, *For Armenian State Front*, *You will not get him elected*³ and *My Step* civic initiatives) that put forth political demands⁴. The assemblies held in April-May were unprecedentedly big in terms of the number of their participants. For instance, on April 13, there were about 4,500 participants in France Square, while on April 22 and April 23, only in Republic Square the number of the participants was about 90,000 and 100,000 respectively. By collating data from first-hand observations and media reports it is possible to conclude that on some days the total number of participants in the assemblies that drew huge crowds was over 200,000.

According to the data presented by the Yerevan City Hall (the *authorized Body*), 83 notifications were lodged with the Yerevan City Hall in 2017. 48 of those were taken note of, 6 notifications were submitted for conducting an urgent assembly and 1 notification for spontaneous

3 Subsequently known also as *Reject Serzh!* civic initiative.

4 Political demands were against Serzh Sargsyan assuming the RoA Prime Minister's post after the expiration of his term as the RoA President.

assembly. 19 notifications were submitted with violation of the *Law on Freedom of Assembly* and 9 notifications were withdrawn by organizers. Decisions to impose restrictions on those assemblies or to ban them were not made.

In 2018, the Authorized Body imposed restrictions concerning the notifications submitted by N. Pashinyan and V. Hovakimyan about staging around-the-clock rallies and marches in Yerevan from April 13 till April 18. The restrictions were related to hours for holding them (*it was proposed that rallies should not be held in the nighttime*) as well as to routes (*instead of Baghramian Avenue another route was proposed*⁵).

Nevertheless, observers registered instances of police interferences with and restrictions on assemblies as well as 1 instance in 2017⁶ and over 1,100 instances in 2018⁷ of assembly participants forcibly taken to police departments. In 2017, instances of police violence against assembly participants were not observed. However, policemen used

5 The buildings of the RoA National Assembly, the President's (at present the Prime Minister's) Office and the Constitutional Court are located in Baghramian Avenue.

6 On 19 September 2017, family members of imprisoned Karo Yeghnukyan and members of the Armenian Women's Front were forcibly brought to police departments from Republic Square. According to the RoA Ministry of Emergency Situations, on that day they received information that a bomb was placed in Republic Square. <http://www.mes.am/hy/accidents/item/2017/09/19/paytucik19/>

7 All those incidents took place during the April 2018 assemblies. For more details see REPORT On observations of the events that occurred and of the assemblies that were held in the Republic of Armenia in April-May 2018, 2018 by Helsinki Committee of Armenia (http://armhels.com/wp-content/uploads/2018/08/HCA-Report_2018_ENG.pdf)

physical force as well as interfered in other ways during some assemblies⁸. Interferences for the most part took the form of policemen stopping marches, imposing restrictions on some routes of marches and not allowing participants of the march to approach some buildings (*RoA President's Office, Office of the RoA Prosecutor General, Convicts Hospitals affiliated with the RoA Ministry of Justice, Embassy of the Russian Federation, etc.*). In the course of the parliamentary election campaign conducted in March, at a rally staged by the *Ohanyan-Raffi-Oskanian Alliance* an incident occurred between rally participants and the Village Head who verbally abused the former⁹.

At the assemblies staged in April 2018, excessive force was used and acts of violence were committed during numerous assemblies as well as flash grenades and acoustic flash grenades were thrown during 2 assemblies¹⁰.

As compared to previous years, the situation with and protection of the right to freedom of assembly were volatile as a result of an impact made by a number of civic and political factors. Thus, as a civic movement, a number of assemblies conducted in 2015 against the proposed increase of electricity tariffs (known as *Electric Yerevan*) basically proved successful.

8 On November 15, participants of the rally and march organized by members of the civic initiative *For the Development of Science* sat down in the lanes section of the roadway in Baghramian Avenue (in front of the RoA National Assembly building) and blocked traffic. Policemen forcibly removed rally participants to sidewalks.

9 For more detailed description of those incidents see the Republic of Armenia Parliamentary Elections - 2017 Report published by Helsinki Committee of Armenia. The Report can be retrieved at http://armhels.com/wp-content/uploads/2017/05/Parliamentary_Elections_2017_Report_English.pdf

10 See Report mentioned in footnote 7.

In the time period that followed those events, a number of already existing (*No to Plundering!, No Front*, etc.) and newly established (*Arise, Armenia!, New Armenia, We are owners of our country, Red Card*, etc.) Initiatives actively acted as assembly organizers. For example, from December 2015 on, oppositional *New Armenia Initiative* staged rallies from time to time in Liberty Square, during which quite a few speakers harshly criticized current authorities. The Initiative even established a permanent sheltered headquarters in the Square. Prior to the Referendum on Constitution that was to be held on 6 December 2015, *New Armenia* as well as many other civic and political initiatives publicly spoke against the proposed amendments to the Constitution and after the referendum they demanded that the results be recognized as null and void. During that period of time, significant interferences with assemblies on the part of the authorities were rare or relatively proportional. However, after the adoption of the referendum results, the authorities' attitude to opposition assemblies changed noticeably. During a peaceful assembly held on 1 January 2016, Gevorg Safaryan, a member of the *New Armenia Initiative*, was detained and then arrested¹¹. A number of assemblies staged by oppositional forces in the period that followed were subjected to excessive interferences (for example, *the assembly organized by the Armenian Women's Front and the New Armenia Initiatives on 24*

11 Gevorg Safaryan was charged with committing violence against a policeman and was sentenced to 2 years in prison. Subsequently, other charges were brought against him within the criminal case instituted against Jirair Sefilian, a member of the Constituent Parliament political movement. On 13 June 2018, after the Velvet Revolution, Gevorg Safaryan was released from prison.

March 2016).

Interferences with opposition rallies became even more severe in the aftermath of the four-day war of 2016¹². For example, police interference with the assembly organized by the *We are owners of our country* Initiative on April 22 was unprecedentedly rough and disproportionate for the time period in question. The number of policemen exceeded that of rally participants by many times. While forcibly taking assembly participants to police departments, policemen used excessive brute force and a reporter's freedom was temporarily limited¹³. A flash mob was planned to be conducted during a public ceremony to be officiated by the Pope and to be held in Republic Square on June 25. The flash mob organizers intended to raise posters with *FREE POLITICAL PRISONERS IN ARMENIA* inscription and to videotape the action. Police prevented the event by forcibly taking members of the Initiative to police departments in advance.

The most significant event in the next period of time was the seizure of the RoA Patrol Police regiment in Erebuni district in Yerevan by the *Sasna Tsrer* armed group from 17 to 31 July 2016. During the entire period of the incident, spontaneous assemblies were held in Yerevan that drew big crowds¹⁴. Over that entire period

12 The "four-day war" refers to military hostilities that took place between armed forces of Azerbaijan and Nagorno-Karabakh on 1-5 April 2016.

13 "The Police: Yesterday no reporter was detained or forcibly brought to a police department." Radio Liberty. 23 April 2016. Source: <http://www.azatutyun.am/a/27692327.html>

14 For more details see REPORT on the events that occurred in the Republic of Armenia from July 17 through August 5, 2016 (http://armhels.com/wp-content/uploads/2016/08/HCA_Report_July-17-Aug-5_Eng.pdf)

numerous reports about gross violations of human rights were received from media outlets, various individuals and other sources. The reports dealt primarily with instances of the police cruel and inhuman treatment of assembly participants, use of excessive force and special means, unlawful detentions, violations of the right to freedom of peaceful assembly and to freedom of speech, violence against reporters, various persecutions of and terror against active citizens and their family members and other similar incidents, which peaked during the assembly held in *Sari Tagh* neighborhood on July 29. For a long period of time following the surrender of the armed group members (from fall 2017 till the end of 2017) the number of assemblies organized by the Initiatives holding opposition views and the number of participants in those assemblies plummeted. Besides the above mentioned violations, the arrests of a number of participants of the July assemblies and serious criminal charges brought against them¹⁵, the absence of tangible progress in criminal cases instituted with regard to violence perpetrated against assembly participants are reporters or, as it could be characterized, the *atmosphere of impunity* contributed to a more passive stance with regard to conducting assemblies. On the whole, it can be stated that protection of the right to freedom of assembly is to a large extent dependent on *the will of the powers that be*, more so when the matter concerns the assemblies conducted by individuals and initiatives who hold opposition views.

In early 2018, protection of the right to freedom of assembly can be assessed as *largely enabled but could be improved* but with

15 For more detail see Criminalization of protests section.

a significant reservation because a number of individuals were still in detention as a result of their attempts to implement the right to freedom of assembly. On April 13, the protest journey participants, including N. Pashinyan, reached Yerevan and staged the first big rally in Liberty Square, marking the beginning of the *Velvet Revolution*. Immediately after the rally, protesters blocked France Square, which is located in the center of the capital city and urged citizens to join their struggle. The movement was snowballing and on April 17 tens of thousands of demonstrators were taking part in non-violent civil disobedience actions. After Prime Minister Serzh Sargsyan's resignation on April 23 the law-enforcement agencies stopped interfering with rallies that were still going on. On May 8 the leader of My Step civic movement N. Pashinyan was elected new Prime Minister by the National Assembly during second session. It should be noted that due to the political changes brought about by the assemblies held in April, the situation with protection and accessibility of the right to freedom of assembly has noticeably improved. Nevertheless, so far there are no results of the criminal investigation of numerous cases of disproportionate interference with and during assemblies. Those are necessary for providing a comprehensive assessment of overall protection of the right to freedom of assembly.

III. LEGAL FRAMEWORK



The right to freedom of assembly is guaranteed in the Republic of Armenia by the RoA Constitution as well as by the *Universal Declaration of Human Rights* and the *European Convention for the Protection of Human Rights and Fundamental Freedoms*, among other international Treaties. Article 44 of the Constitution states that “Everyone shall have the right to freely participate and organize peaceful, unarmed assemblies.” As a result of the 2015 Constitutional amendments, provisions concerning notifications and types of spontaneous assemblies were included in the text of the Constitution. (“*Outdoor assemblies shall be held in the cases prescribed by law on the basis of notification given within a reasonable time period. Notification shall not be required for holding spontaneous assemblies.*”). It is noteworthy that the amended Constitution explicitly requires a separate law on assemblies. (“*The conditions and procedure for the exercise and protection of the freedom of assembly shall be prescribed by law.*”) The Constitution also contains an exhaustive list of grounds for restricting the freedom of assembly, which are substantially the same as those stated in Article 11 of the ECHR. (“*The right to freedom of assembly may be restricted only by law, for the purpose of*

state security, preventing crimes, protecting public order, health and morals or protecting the basic rights and freedoms of others.”) The *Law on Freedom of Assembly*, which was adopted in 2011, draws a distinction between the assemblies that require notification and those that do not. In particular, submission of a notification in advance is mandatory for all assemblies except urgent, spontaneous assemblies and assemblies with up to 100 participants¹⁶. Also addressed is the issue of counter-assembly. The Law states that holding such an assembly is *per se* not a ground for imposing limitations on the first assembly, unless there is an imminent danger of a clash between their participants¹⁷.

16 For detailed information about the notification procedure and involved bodies see Administration of Freedom of Assembly section.

17 See Law on Freedom of Assembly, Article 18.



There is a Joint Opinion (no. 596/2010) on the *Law on Freedom of Assembly* currently in force adopted by the Venice Commission and OSCE/ODIHR in December 2010¹⁸. (The law, in its turn, was adopted in 2011). According to the Joint Opinion, “the Draft Law... is to a large extent in accordance with international and European standards in this matter.” Nevertheless, the Venice Commission and OSCE/ODIHR presented a number of recommendations that were not included in the final version of the Law. The recommendations for the most part were related to the prohibition of assembly and stated that “the prohibition of assembly, in the immediate vicinity of high risk facilities should be limited to areas closed to the public.” The Opinion indicates that “provisions amounting to blanket prohibitions including on location of a peaceful assembly should be revised. The reasons for a ban of an assembly should include a reference to an “imminent threat of violence”.” However, Article 19 of the current Law stipulates prohibition of an assembly, if the assembly purpose is to forcibly overthrow the constitutional order, to incite ethnic, racial, or religious hatred, or to advocate violence or war or if it is to be conducted at such a distance from a number of listed facilities, which threatens their natural activities. There is no mention of an imminent

18 See INTERIM JOINT OPINION ON THE DRAFT LAW ON ASSEMBLIES OF THE REPUBLIC OF ARMENIA by THE VENICE COMMISSION and OSCE/ODIHR Adopted by the Venice Commission at its 85th Plenary Session (Venice, 17-18 December 2010).

threat of violence¹⁹. The Joint Opinion also states that “it is unclear how the “distance... which threatens... [the] ordinary activities...” of the listed institutions in Article 19 §3 would be measured. Nor is it clear what degree of threat of disruption would validate prohibition which is the only restriction in this Article open to the Authorized Body. Whilst the assembly should not prohibit the institutions listed in the Article from functioning, the fact that it causes some inconvenience should not result in prohibition or indeed in any significant restriction.” The practice of the implementation of the Law also supports this concern. In some instances police took a differentiated approach to the assemblies held in front of the building of the Office of the RoA President²⁰ based on the criterion of the distance between the said institution and the assembly in progress, even in case the participants of the assembly had held a similar assembly in the same location²¹.

On 25 October 2017, certain amendments were made in the RoA *Law on Freedom of Assembly*²². The amendments that were made derive from the specific features of the amended Constitution of 2015 and for the most part are related to individuals,

19 As per Article 19 of the Law on Freedom of Assembly, those facilities are buildings of the Office of the President of the Republic, National Assembly and Government as well as courts, correctional facilities, the “Nuclear Power Station of Armenia” CJSC, the underground storage facility of natural gas and its support structures, or the “Orbita 2” ground satellite station.

20 At present, the Office of the RoA Prime Minister is situated there.

21 See Ruling of the Court of Appeal regarding Gohar Sargsyan vs. RoA Police Case ՎԴ/0573/05/16.

22 These are second amendments after the Law became effective in 2011. The first amendments were made in 2014.

who are listed in the Law and who may not wear an official uniform while participating in an assembly, and should exhibit political neutrality when participating or organizing an assembly. The amendment generalizes the list of law-enforcement servicemen (“prosecutors, investigators, servicemen in armed forces, national security, police and in other militarized bodies”) and members of the Constitutional Court and judges of courts of other instances are no longer differentiated and are mentioned as “judges.”²³ Besides, a provision was added to the Law to the effect that further restrictions on the right of the above-mentioned persons to organize and participate in assemblies can be set by other laws. In various Articles of the Law, instead of phrase “constitutional rights of persons” the wording “basic rights of persons” is used. For example, the Authorized Body can put forth conditions regarding the assembly to be conducted, if the venue, time or mode of conducting the assembly may lead to *the limitation of the basic rights of other persons*. Essentially, the said amendments are cosmetic in nature.

In 2017, the RoA Government also submitted a voluminous Draft Law on amending the *Law on Freedom of Assemblies* in the Unified Website for Publication of Legal Acts’ Drafts, which is accessible for public acknowledgement²⁴. According to authors of the Draft, the necessity to adopt the legal Act was related to the Constitutional amendments made on 6 December 2015 and to harmonize the Law with the requirements of legal certainty.

Wording of certain provisions in the Draft gives

23 The said changes derived from the logic of Chapter 7 of the amended Constitution (“Courts and the Supreme Judicial Council”).

24 <https://www.e-draft.am/projects/106/about>

rise to concern. Article 18 of the Draft states that “*Any subsequent assembly that is held in connection with the same phenomenon or event cannot be regarded as spontaneous and should be held in conformity with the established procedure for notification.*”²⁵ This wording is added to the spontaneous assembly-related provision in the current Law, according to which spontaneous assembly is the one that is conducted with the aim of reacting to an event immediately. The procedure, which has been established by the current Law for assemblies to be held with notification, stipulates a notification submission timeframe of not earlier than 30 and not later than 7 days prior to the planned assembly. The addition proposed by the Draft Law is problematic in the context of events of long duration since intention to conduct an assembly related to those events may appear in different groups of people or at different stages of the event. (For example, the seizure of the RoA Patrol Police regiment in Erebuni district in Yerevan by the Sasna Tsrer armed group from 17 to 31 July 2016. During the entire period of the incident, spontaneous assemblies were held in Yerevan that drew big crowds.) In such situations, assembly participants or organizers cannot reasonably comply with the timeframe set for notification and that failure will result in conducting the assembly with the violation of the procedure established by law and will entail administrative liability²⁶. The European Court of Human Rights (ECHR) in *Éva Molnár v. Hungary* case expressed an opinion that “the right to hold spontaneous demonstrations may override the obligation to give prior notification to public assemblies only in

25 See Article 18 of the Draft Law.
26 See RoA Administrative Offences Code, Article 180¹.

special circumstances, namely if an immediate response to a current event is warranted in the form of a demonstration. In particular, such derogation from the general rule may be justified if a delay would have rendered that response obsolete.”²⁷ In its another decision the ECHR stressed that “in special circumstances when an immediate response, in the form of a demonstration, to a political event might be justified, a decision to disband the ensuing, peaceful assembly solely because of the absence of the requisite prior notice, without any illegal conduct by the participants, amounts to a disproportionate restriction on freedom of peaceful assembly.”²⁸

The Draft amendments Law addresses the start of the assembly (Article 28 of the current Law) and proposes the following provision: “the assembly may not start, if no organizer has shown up.”²⁹ The wording is open to various interpretations because it is not clear what legal status the crowd of people present at the assembly venue has, when the assembly organizer is absent. According to the Law currently in force, “an assembly is a temporary peaceful and unarmed presence of two or more individuals in any location for the purpose of formulating or expressing common opinion on issues of public interest.”³⁰ (According to the proposed Draft Law, an assembly is “intentional and temporary presence of two or more individuals in a public place with an intention of forming or expressing a shared

27 See Éva Molnár v. Hungary, application no. 10346/05, § 38.
28 See Bukta and Others v. Hungary, application no. 25691/04, § 36
29 See Article 19 of the Draft Law.
30 See Article 2 of the RoA Law on Freedom of Assembly.

opinion.”³¹). The above wording makes it clear that the law regards an assembly as *presence of two or more individuals in a certain location and for a certain purpose regardless of an organizer’s presence*. In this context, Article 28 of the Draft Law gives rise to serious concern, also taking into consideration the fact that as a result of certain events the organizer or organizers indicated in the notification may fail to come to the assembly venue because of the circumstances beyond their control, which, in its turn, may affect the rights of persons already present at the venue of the planned assembly.

Another proposed amendment to the Draft Law that causes much concern is an amendment of the provisions regarding prohibition of conducting the assembly. According to the current Law, an assembly that is held with notification shall be prohibited after the Authorized Body has organized the hearing, “if the purpose of the assembly is to forcibly overthrow the constitutional order, to incite ethnic, racial, or religious hatred, or to advocate violence or war.”³² This provision applies to those cases when the purpose of the assembly, as stated by the person who submits notification, entails the above-mentioned actions, which automatically brings about prohibition of the assembly by the Authorized Body. The Draft amendments Law proposes that assembly shall be prohibited if “there are well-founded suspicions that the purpose of the assembly is to forcibly overthrow the constitutional order, to incite ethnic, racial, or religious hatred, or to advocate violence or

31 See Article 2 of the Draft Law.
32 See Article 19 of the RoA Law on Freedom of Assembly.

war.”³³
It should be noted that a similar legislative amendment was submitted and adopted in 2008 in the RoA *Law on conducting meetings, assemblies, rallies and demonstrations* that was in force at that time³⁴. Prior to that amendment, the Authorized Body could prohibit conducting of the assemblies³⁵, if they “are aimed to overthrow forcibly the constitutional order, instigate national, racial or religious hatred, advocate violence or war.” After the amendment was made in 2008, the above-mentioned grounds for prohibiting an assembly were rephrased as follows:

“If, according to credible data, the conduct of the event creates imminent danger of violence or real threat to the national security, the public order, the health and morality of society, life and health of persons, the constitutional rights and freedoms of others or is aimed at forcibly overthrowing the constitutional order, or inflaming ethnic, racial, or religious hatred, or preaching violence or war, or may lead to mass disorder or cause a substantial material harm to the state, community, physical or legal persons.”

This amendment was adopted on 17 March 2008 during the 20-days’ state of emergency declared because of the clashes between the opposition and the police in the aftermath of

33 See Article 14 of the Draft Law.
34 The law was adopted in 2004 and was repealed in 2011.
35 The wording “public event” is used in the Law.

the RoA presidential elections³⁶. In their Joint Opinion No. 474 / 2008 on the legislative amendments the Venice Commission and OSCE/ODIHR expressed serious concern³⁷. It is noted in the Opinion that the draft amendments now provide for the Police or National Security Service to issue “a justified official opinion” for data concerning forcible overthrowing of the constitutional order, threats of violence, threats to health and morality or to encroachments on some of the constitutional rights and freedoms of others to “considered credible” and therefore that the assembly may be prohibited. Then, making a reference to the Guidelines, the Opinion states that *a hypothetical risk of public disorder* “is not a sufficient basis for restricting an assembly”, and “the burden of proof should be on the regulatory authority to show that the restrictions imposed are reasonable in the circumstances.”

The above-mentioned comparison of the earlier and currently active laws raises concerns about the real reasons for submitting the Draft Law and arouses a well-founded suspicion that the real reason for submitting it is not to harmonize the law with the RoA Constitutional amendments but to adopt new restrictions on the right to freedom of assembly. As the adoption of the legislative amendments made in 2008 was related to the assemblies held

36 See the 1 March 2008 RoA President’s Decree On declaring a state of emergency. <http://www.irtek.am/views/act.aspx?aid=42297>
37 See DRAFT JOINT OPINION ON THE DRAFT LAW OF APRIL 2008 ON AMENDING AND SUPPLEMENTING THE LAW ON CONDUCTING MEETINGS, ASSEMBLIES, RALLIES AND DEMONSTRATIONS OF THE REPUBLIC OF ARMENIA by the Venice Commission and OSCE/ODIHR. Endorsed by the Venice Commission at its 75th Plenary Session (Venice, 13-14 June 2008).

by the opposition in February-March of that year and to subsequent clashes, the Draft Law submitted in 2017 is accounted for by the nature of the assemblies held in July 2016³⁸.

The Draft Law was not submitted to the National Assembly. Neither was an expert conclusion requested from the Venice Commission and OSCE/ODIHR. During the discussion held on 21 May 2018 in the Civic Council affiliated with the RoA Ministry of Justice Helsinki Committee of Armenia spoke about this issue and proposed that the Draft Law be discarded.

In addition to what has been said above, in September 2018, a separate Draft Law on amendments to the *Law on Freedom of Assembly* was submitted to the Parliament by several members of the RoA National Assembly.

The Draft Law intends to prohibit those assemblies that are to be conducted at such a distance from the *Mother See of Holy Etchmiadzin of the Holy Armenian Apostolic Church, monasteries belonging to the Holy Armenian Apostolic Church and other religious structures that may pose a threat to their smooth operation and the assembly is directed against the Holy Armenian Apostolic Church, its priests and rituals or creed or aims to undermine their normal operation*. The Draft envisages the simultaneous presence of two conditions for prohibiting an assembly, viz. *such a distance that may pose a threat to their smooth operation and the assembly being against the Holy Armenian Apostolic Church,*

38 See REPORT on the events that occurred in the Republic of Armenia from July 17 through August 5, 2016 by Helsinki Committee of Armenia (http://armhels.com/wp-content/uploads/2016/08/HCA_Report_July-17-Aug-5_Eng.pdf)

its priests and rituals or creed or aiming to undermine their smooth operation.

The necessity to adopt the Draft Law is justified, *inter alia*, by Article 18 of the RoA Constitution: *"The Republic of Armenia shall recognize the exclusive mission of the Armenian Apostolic Holy Church, as a national church, in the spiritual life of the Armenian people, in the development of their national culture and preservation of their national identity."* It is also stated that the proposed amendment is in line with the international practices and the Lateran Treaty concluded in 1884 between the Holy See in Vatican and Italy^{39,40}.

The above Draft Law for the most part follow the same line of reasoning that was criticized by the Joint Opinion (no. 596/2010) of the Venice Commission and OSCE/ODIHR: *whilst the assembly should not prohibit the institutions listed in the Article from functioning, the fact that it causes some inconvenience should not result in prohibition or indeed in any significant restriction*. Besides, the Draft Law envisages prohibiting the conduct of an assembly at a certain distance from the Church facilities not only in case *it poses a threat to their smooth operation* but also if it may pose a threat thereby making the grounds and criteria for restrictions more uncertain. On the other hand, from the perspective of protection by law, it establishes a clear distinction between the Armenian Apostolic Church and other

39 See The Draft Law on amending the Law on Freedom of Assembly. <http://parliament.am/drafts.php?sel=showdraft&DraftID=50076>

40 The date indicated in the Draft Law is incorrect. The Lateran Treaty was concluded in 1929. See at <http://www.vaticanstate.va/content/dam/vaticanstate/documenti/leggi-e-decreti/Normative-Penali-e-Amministrative/LateranTreaty.pdf>

religious organizations that operate in this country. It should be noted that the above-mentioned Draft law for amending the Law were submitted after the protest rallies staged by the *New Armenia, New Catholicos* Initiative in June 2018, during which their participants demanded resignation of Catholicos of All Armenians Garegin II⁴¹. Member of the National Assembly E. Sharmazanov, who is one of the authors⁴² of the above-mentioned Draft Law for amending the *Law on Freedom of Assembly*, strongly criticized that Initiative.

There have been no public hearings of the above-mentioned Draft Laws. However, it should be noted that the Government suggested the Parliament to refrain from adopting the second Draft law in its opinion issued on October 30.

41 "Members of the New Armenia, New Catholicos Initiative intend to continue Cross processions and protest actions." Radio Liberty. 7 June 2018 (in Armenian) at <https://www.azatutyun.am/a/29278725.html>

42 "«Had they barged in into an office of a sectarian organization or said something unpleasant to sexual minorities...» Sharmazanov sees a threat." Henaran. am, 18 June 2018 (in Armenian) at ` <http://henaran.am/378355.html> "Authors of the Draft for amending the Republic of Armenia Law On Freedom of Assembly." http://parliament.am/draft_history.php?id=10034



IV. ADMINISTRATION OF FREEDOM OF ASSEMBLY

According to the RoA *Law on Freedom of Assembly*, which was adopted in 2011, in order to hold a public assembly its organizer notifies the Authorized Body in writing, except in case of urgent, spontaneous assemblies and assemblies with up to 100 participants. The law is the only legal framework which establishes standards and procedure for the administration of the assemblies. The Law is in force throughout the country. The Authorized Body is a Community Head (in Yerevan it is the City Hall). The responsible official is one of the deputies of the Mayor. After the notification has been received the procedure is as follows. In the Yerevan City Hall, after each notification has been logged, the author of the notification is given a notice about the timeframe for a review of the notification in question. If the notification has been submitted from 30 to 14 days prior to the assembly, the Authorized Body shall consider it within 5 days from its submission, and if the notification has been submitted from 13 to 7 days prior to the assembly, the Authorized Body shall consider it and make a decision within 48 hours from its submission. Familiarizing itself with the content of the notifications and with other documents required by law and if there are no flaws in them, the Authorized Body logs

them in a special register and immediately sends them to the RoA Police. If the assembly is planned to be conducted at the venues of immovable historical monuments or in their immediate vicinity, then after submission of the notification the notification shall also be immediately sent to the Ministry of Culture for receiving an opinion on conducting the assembly⁴³. Copies of the notifications shall be posted in the administrative building of the Authorized Body in a place accessible and visible to all⁴⁴. Notifications are to be submitted in a written form personally or by mail, including by e-mail. According to a City Hall representative, notifications are rarely submitted by e-mail.

If the submitted notification contains formal errors, they are corrected and either a new notification (with errors removed) is submitted or the author makes corrections in the notification and an appropriate protocol is drawn to that effect. To that end a representative of the City Hall initiates a meeting with assembly organizers. In those cases, when there is a necessity to stipulate

⁴³ See Article 16 of the RoA Law on Freedom of Assembly.

⁴⁴ See Article 15 of the RoA Law on Freedom of Assembly.

conditions, apply restrictions or prohibit the assembly, the Authorized Body organizes hearings⁴⁵. The authors of the notification and, when necessary, authorized representatives of other entities, take part in hearings.

The grounds for applying restrictions on an assembly are stated in Article 18 of the Law. As per that Article, if it becomes clear from the notification presented to the Authorized Body or from other information at its disposal that the time, venue or mode of the planned assembly may directly lead to a disproportionate restriction on the fundamental rights of other persons or on public interests, the Authorized Body may put forth to the organizer conditions concerning time, venue or mode of conducting the assembly. Essentially, the “other information at the disposal” of the Authorized Body is for the most part an opinion presented by the police and in relevant cases also by the Ministry of Culture. In some cases an opinion of the Ministry of Emergency Situations is taken into consideration. That happens when data in the submitted notification for a public event gives ground to conclude that the event can lead to a fire-dangerous situation⁴⁶.

In the courses of interviews, one of assembly organizers, who is a member of the *Coalition to Stop Violence against Women*, pointed out that sometimes there were problems concerning the assembly venue mentioned in the notification. For example, after a notification had been submitted about organizing a memorial candle lighting ceremony dedicated

45 See Article 17 of the RoA Law on Freedom of Assembly.

46 This provision applies mostly to public events rather than to assemblies and public events are regulated by the Law on Local Self-Government.

to victims of domestic violence in front of the Government building, a representative of the City Hall tried to convince them to choose another venue pointing out that there is also a danger of fire. Eventually the assembly participants held candles in their hands. According to the member of the *Coalition to Stop Violence against Women*, the real reason behind the recommendation to choose another venue to conduct an assembly was public perceptions of the *domestic violence* phenomenon.

The decision to take note of the notification about conducting an assembly is posted on the webpage of the Yerevan City Hall and its copy is posted on the first floor of the Yerevan City Hall in a place accessible and visible to all. The posting of the notification on the webpage is stipulated by the *Law on Freedom of Assembly*⁴⁷, if a community in question has a webpage. Nevertheless, with the exception of the Yerevan City Hall, a webpage of any other community does not contain information about notifications with regard to assemblies. A part of the problem is that the overwhelming majority of the assemblies conducted with prior notification are organized in the administrative territory of Yerevan. According to a City Hall representative, Heads of other communities often contact him to get information or ask an advice about administration of assemblies.

After taking note of the notification, a City Hall representative provides information about the planned assembly to the Head of a given administrative district and to the Police as well as to the Health Department of the City Hall to

47 See Article 15 of the RoA Law on Freedom of Assembly.

ensure provision of medical services⁴⁸. Within the timeframe set by the law, an authorized representative of the City Mayor makes a decision about taking note of the notification or prohibiting or placing restrictions on the assembly.

The data on the assemblies that were conducted during all years are collected and kept for 5 years. In 2017, the Yerevan City Hall registered 83 notifications, 48 of which were taken note of, 6 notifications were about urgent assemblies and 1 notification was about conducting a spontaneous assembly, 19 notifications were submitted with violation of the procedure of the *Law on Freedom of Assembly*⁴⁹ and 9 notifications were recalled by assembly organizers. In January-May 2018, 166 notifications were registered, 142 of which were taken note of, restrictions on the time and the route were imposed on 6 assemblies, 5 notifications were submitted for conducting an urgent assembly, 10 notifications were submitted with violation of the *Law on Freedom of Assembly* and 3 notifications were recalled by assembly organizers. Submission of the above-mentioned large number of notifications reflects *modus operandi* of some assembly organizers. The latter submit notifications for all calendar days of a certain period of time and hold an assembly at the time of their choosing. It should be noted that

48 Even though the RoA Law on Freedom of Assembly does not envisage this function for the Authorized Body, such notification has, according to the City Hall representative, become a routine practice. In the course of first-hand observation, on numerous occasions there was an ambulance team next to the assembly venue.

49 This does not result in restriction or prohibition of the assembly. However, the authors are required to make corrections.

no State duty has to be paid for notification submission.

Not a single assembly was prohibited in 2017-2018. Restrictions were imposed on the round-the-clock assemblies and marches planned by members of *My Step* Initiative N. Pashinyan and V. Hovakimyan to be conducted in Yerevan from April 13-18. The restrictions were about the time of events (it was suggested that assemblies should not be held in the nighttime) as well as about routes. It was suggested that instead of Baghramian Avenue another route should be selected for the April 13 march. It should be noted, that the organizers disregarded the restrictions and held assemblies including during the nighttime.

According to the data provided by the City Hall, so far no public officials or civil servants have submitted notifications for conducting an assembly.

ACCOUNTABILITY IN ADMINISTRATION

Decisions of Authorized Bodies (*Heads of communities*) can be appealed to the Administrative Court within 3 days after the decision to apply restrictions or prohibit the assembly is made or within 24 hours if the decision is made not later than 7 days prior to the planned assembly. The submitted applications are accepted on the same day and are examined by the Court within 2 calendar days.

A degree of potential liability of Authorized Bodies with regard to imposed restrictions or prohibitions is small. It is also accounted for by the fact that Authorized Bodies engage in administration only in case of the assemblies

that are conducted with notification and in the context of all the assemblies held throughout the country such assemblies constitute only a small part. For example, out of 393 assemblies observed from July 2015 till June 2018 only 85 were held with notification. (*The assemblies conducted during the 2017 parliamentary election campaign are not included here*). In recent years, 2 appeals were brought to courts of law against the restrictions imposed by Authorized Bodies. Both appeals were rejected. One of the appeals was lodged by V. Avetisyan, a member of the *Constituent Parliament* political Initiative, against the restrictions imposed by the Authorized Body on the notification submitted on 29 January 2016. The restrictions were placed on pitching tents at the assembly venue and on conducting the assembly in the nighttime.



V. POLICING OF ASSEMBLIES

Of the RoA law-enforcement agencies, it is the RoA Police that is endowed with powers of administration of peaceful assemblies. The Police are informed about an envisaged assembly by the Authorized Body that reviews the notification and as per the law appoints its representative. In order to organize police service at the assembly venue the issues of sequence of actions, calculating manpower and means, forming a police detail, instructions procedure, outfit of involved policemen and other related issues are regulated by normative and departmental Acts⁵⁰. At the assembly venue, when necessary, special control stations are set up to guide actions of the policemen assigned to the assembly. After inspecting the assembly venue, specifics of the participants' movement and placement are defined, corridors are set up for ambulances and fire engines that are also used for bringing in reserve police force (the location for stationing reserve forces is also determined in advance) and for evacuating people, who are in that area, in case of emergency.

The Law currently in force requires that an assembly

⁵⁰ These are the RoA Law on the Police, the 11 January 2007 RoA Government Decree No. 151-N "On approving the procedure for police patrol service" as well as other legal Acts.

organizer should inform the police only in case of a spontaneous or urgent assembly⁵¹. The Law states that if a spontaneous assembly has a de-facto organizer, then the latter is obligated to immediately inform about it the police department that is in charge of area of the assembly venue. In case of an urgent assembly, its organizer is obligated to inform the Authorized Body and the Police prior to taking steps for conducting the assembly. It should be noted that in this case the Law uses the term "to inform" instead of "to notify" in contrast to the assemblies that are conducted with prior notification. It means first of all that in case of urgent and spontaneous assemblies (*if there is a de-facto organizer*) the provisions spelled out in Chapter 2 of the *Law on Freedom of Assembly* for review of the notification do not apply (*including provisions for imposing restrictions on or prohibiting an assembly by the Authorized Body*).

The powers of the police to impose restrictions on assemblies (*including spontaneous and urgent assemblies*) and legal grounds of those powers are presented in Articles 33 and 34 of the RoA *Law on Freedom of Assembly*. The

⁵¹ See Article 27 of the RoA Law on Freedom of Assembly.

Police may terminate an assembly only if there is no other way for preventing disproportionate restrictions of the fundamental rights of other persons or of public interests. In that case the Police turn to the assembly leader (*who is not necessarily the assembly organizer*) who is obligated to immediately inform assembly participants thereof. In the absence of an assembly leader or the failure of the latter to comply with the demand of the Police, a Police representative, using a loudspeaker, demands at least twice that assembly participants terminate the assembly and sets a reasonable time period for doing so. The Police representative also warns assembly participants of his powers, in case of failure to terminate the assembly voluntarily during the set time period, to disperse the assembly, including the use of special means outlined in the Republic of Armenia *Law on the Police*. In case the assembly is not voluntarily terminated within the set period of time the Police disperse the assembly. The above procedure does not apply only to those cases, when mass disturbances, which require taking urgent measures necessitated by the situation, erupt at the assembly venue.

According to the Police, the experience acquired in the past few years, practices and servicemen's professionalism allow them to do proper administration of assemblies. Certain difficulties arise in case of spontaneous or other non-notified assemblies that do not have an organizer or a de facto leader. The Police point out that in such cases they have a problem with making lawful police demands accessible to assembly participants. Additional difficulties emerge because of those assemblies during which the movement of vehicles and passers-

by is temporarily limited. In those cases the Police take measures to restore traffic and offer citizens alternative traffic routes taking into consideration the significance of blocked roads and traffic density in a concrete situation.

For the most part it is police servicemen from street service units that are involved in administration of assemblies. During the service training sessions, the existing practices are examined and courses are organized with a view to developing negotiation skills. The serviceman's capacity to conduct negotiations is evaluated by the Police within the context of skills to communicate, get involved in the situation and make clear-cut decisions through initiative and flexibility. In that process the Police take into consideration what kind of people are present at the assembly venue and this serviceman's prestige, how much weight is attached to his words, etc.⁵² Police servicemen maintain contacts with assembly organizers prior to the assembly as well as in the course and after the assembly. These contacts are necessary for ensuring assembly participants' safety and getting information by word of mouth about routes of planned marches as well as for remove from the assembly venue those persons who rudely violate the natural course of the assembly⁵³. By staying in contact with assembly organizers the Police perform during assemblies their other functions set by the Law, for example, they ensure free access to buildings, structures or other premises located at the assembly venue or adjacent to

52 In 2011, the Head of the Police approved by his Order 2600-A the Guide for conducting negotiations while maintaining public order and public security. See: <http://www.police.am/images/uxecuyc-N1-arm.pdf.pdf>

53 See Article 32 of the RoA Law on Freedom of Assembly.

it.

The findings of assembly observations demonstrate that by undertaking negotiations with assembly organizers or participants during the assemblies that have high visibility or are oppositional the police significantly reduce the tensions that exist between the police and assembly organizers or participants. Such incidents were observed during the assemblies held in April 2018. For example, during a protest action organized by a group of demonstrators in Yeritasardakan metro station in Yerevan on April 16, when by standing or lying in the doors of metro carriages the activists blocked metro operation⁵⁴. Nevertheless, on many occasions, depending on the attitude of a concrete policeman or servicemen of a certain police unit present at the assembly venue and on who the assembly organizer is, the communication initiated by the police becomes overbearing thereby making negotiations unproductive⁵⁵.

A course titled *Clarifications about the RoA Law on Freedom of Assembly, the powers of the Police during assemblies* is taught at professional development department of the Police educational establishment within the framework of the academic subject *Administrative actions of the Police*. Topics related to the right to freedom of assembly are also taught at the Law department of the Police Academy at the educational establishment to middle-level and senior groups of police, police troops, community police and other servicemen. Lectures, seminars, group discussions and analysis of various situations related to the right to freedom of assembly are organized there. The RoA *Law on the Police*

54 See the Report mentioned in Footnote 7.

55 Ibid.

states that the goal of special training provided to develop negotiation and persuasion skills is to limit the use of physical force, special means and firearms⁵⁶.

According to the Police, the study of the topics included in the academic subjects themes and in thematic plans of professional development courses are sufficient for equipping students of the educational establishment and servicemen of relevant police units with adequate knowledge on the right to freedom of assembly.

Special means, which are part of the police gear, and grounds for their use are listed in Article 31 of the RoA *Law on the Police*. Special means include rubber truncheons, cartridges with rubber bullets, diversionary flash and acoustic means, means to dismantle barriers and to forcibly stop people and vehicles, electroshock weapons, triggered spark dischargers, service dogs, water cannons and armored vehicles⁵⁷. There are special criteria for the use of individual types and brands of special means⁵⁸. As regards bearing firearms by the police, firearms are not given to police personnel of the detail that ensures public order and security during mass events⁵⁹. According to the Police, the special means at their disposal in line with the law are fully adequate for accomplishing tasks set for the Police.

56 See Article 29 of the RoA Law on the Police.

57 The concrete types of the above-mentioned means are listed in the RoA Government Decree No. 867-N issued in 2011.

58 See Order No. 09-N of the RoA Minister of Health On establishing criteria for allowing the use of special means that are applied against a human being.

59 See paragraph 59 of the RoA Government Decree No. 151-N issued in 2007.

In recent years, the incidents of the harshest use of special means by the Police occurred in 2015, 2016 and 2018. In 2015, during the protest rallies conducted against the proposed increase of electricity tariffs the police used a water cannon. During the assemblies held in July 2016 and in April 2018 the police used flash grenades and acoustic flash grenades. As a result of violence and clashes and the application of special means during the July 2016 assemblies, in particular on 29 July 2016 in *Sari Tagh* neighborhood, 72 individuals, including policemen and minors, sought medical assistance in healthcare facilities.

According to the official note provided to Helsinki Committee of Armenia, on 16 April 2018 in Baghramian Avenue and on 22 April 2018 in Artsakh Street the Police threw 11 flash grenades and acoustic flash grenades. As a result of the use of the above-mentioned special means on April 16 numerous participants sustained injuries of varying severity. 46 citizens, including 6 policemen, sought medical assistance in healthcare facilities in Yerevan. Reporters with *168.am* and *Factor.am* news websites too sustained injuries⁶⁰. On the two above-mentioned days, the police did not warn assembly participants in advance about the use of special means and did not take into consideration the grounds set by the law for the use of special means (*application of special means shall be prohibited while terminating peaceful assemblies and public events held without weapons but with violation of the procedure established by law*⁶¹) and criteria for their application (*for example, the use of Zarya-2 flash grenade is allowed only*

60 See the Report mentioned in footnote 7.

61 See Article 31 of the RoA Law on the Police.

in an open location at a distance of at least 2.5 meters from people, whereas flash grenades were thrown in the direction of a large crowd of assembly participants⁶²). It is noteworthy that on May 11, while speaking about the violations of law that occurred during the assemblies held in April, the newly appointed Head of the RoA Police V. Osipyan mentioned that only some marches deviated from the initially set routes and confirmed the peaceful nature of those marches⁶³.

The grounds for the use of physical force are, among other things, failure to comply with lawful demands of a police serviceman or putting up resistance⁶⁴. Those are among the grounds for the most frequent instances of police interference during assemblies. The assembly observation results demonstrate that police resort to the use of force when assembly participants block the lanes section of the roadway for a long or short period of time but that varies from assembly to assembly and depends on the nature of the assembly. For example, on 17 April 2018, using force, police servicemen removed about 50 demonstrators, who held Victory Bridge blocked, from the lanes section of the roadway to sidewalks and then, forming a human chain, stood in front of the protesters and would not let them move back to the lanes section. Such incidents were observed during numerous assemblies in April 2018 as well as during protest rallies held in

62 See Article 3 of the Annex to the RoA Health Minister's Order № 09-N On establishing criteria for allowing the use of the special means that are applied against a human being.

63 "I gave my consent in order to show the general public that the police really support our people." Radio Liberty, 11 May 2018. <https://www.youtube.com/watch?v=hVFHSIXuWwk> (in Armenian).

64 See Article 30 of the RoA Law on the Police.

earlier periods. Even though the removal of assembly participants from the lanes section of roadways does not in fact deprives those participants of an opportunity to hold a peaceful assembly, in a number of instances some police servicemen used excessive force or violence. For example, on April 19, while removing a protester, who was lying under a police vehicle near the Government building, a policeman kicked him several times. On April 20, while forcibly taking to police departments the participants of the assemblies that were being held in Liberty Square and in A. Aharonyan Street, policemen struck those protesters out with their feet. They also tried with the use of brute force to remove a driver from a cabin of his truck that was blocking street traffic.

According to the Police, in case of physical force use, police servicemen do their best to minimize harm caused to the person who has committed a violation, whereas individuals who have sustained bodily injuries are given medical assistance on the spot or are taken to healthcare facilities. During the most of observed assemblies the ambulance personnel were present at the assembly venue or in nearby areas. At the time of the observation there were instances of police servicemen personally summoning ambulance staff or ensuring safe conditions for the assembly participant who did not feel well (*whether because of the use of force or for other reasons*). Nevertheless, in a number of instances, depending on the nature of the assembly there were obstacles to provision of medical assistance to assembly participants. For example, on 16 April 2018, when numerous individuals, including policemen, sustained injuries because of the

flash grenades and acoustic flash grenades thrown by the police, it took some time for ambulance personnel to approach injured citizens since the Avenue was blocked on one side by a barbed-wire barrier placed by the police and on the other side by large crowds of assembly participants. The observation of that assembly gives grounds to conclude that the issue of accessibility of medical assistance was not taken into consideration, while using special means. The same situation was on 30 July 2016, when an individual made an attempt of self-immolation by fire at the venue of the assembly that was being held in Baghramian Avenue. The ambulance attempted to approach from the other side of the barbed-wire barrier set by the police but in vain. Eventually the person who had made an attempt of self-immolation by fire was taken to a medical facility in a taxi cab⁶⁵.

During assemblies the police use videotaping devices, the use of which is envisaged by the *Law on the Police*. In particular, while maintaining public order, the police may use stationary videotaping or photographic technical devices in public places⁶⁶. The video materials and photo images are destroyed 7 days after they have been taken. Their disposal can be postponed, if a crime or violation of public order have been identified or confirmed with the use of technical devices or if some individuals have lodged an appeal against the actions of police servicemen or an internal investigation has been ordered on the basis of media report about an offence committed by a police serviceman or individuals applied to the police with request of assistance in protection

65 See the Report mentioned in footnote 14.

66 See Article 22 of the Law on the Police.

of their rights⁶⁷.

As a rule, the process of an assembly is videotaped by staff members of the Police press service as well as by individual police servicemen by hand-held video cameras or by cellular phones. As regards the videotaping of police actions by assembly participants, the law does not restrict such actions in any way. However, a number of instances were observed, when police servicemen obstructed the videotaping of their actions by assembly participants. For example, on 17 July 2016, police servicemen forcibly took to police departments the presumed participants of the assembly that was planned to be held in Liberty Square thereby in fact preventing the assembly from being conducted⁶⁸. Police servicemen seized cellular phones of several citizens who were videotaping their actions and then one of the policemen deliberately stepped on a citizen's cellular phone that had fallen onto the ground. Similar occurrences took place also during the assemblies held in April 2018⁶⁹.

While ensuring public order maintenance policemen wear a uniform of a prescribed form with insignia, which allows personal identification, attached to a visible part of the uniform. A serviceman must have chevrons on his uniform, with the name of the unit inscribed on the right side and the police insignia on the left side. A badge with a serviceman's ID number is attached to the left upper part of

67 Ibid.

68 Announcement about the assembly was placed on Facebook by the We are owners of our country Initiative shortly after the Sasna Tsrer armed group seized the police building on the morning of the same day.

69 See the Report mentioned in footnote 7.

the uniform. That number if individual and in case the policeman leaves service that number is not transferred to another serviceman.

The results of the observation of the April 2018 assemblies as well as of the assemblies held in earlier periods of time demonstrate that servicemen from police units that perform their official duties in assembly venues for the most part did not have insignia on their uniforms, which could make their identification possible (*except unit insignia*). In some cases the insignia that shows policemen's rank was covered or not visible (*the policeman was wearing a waistcoat that covered shoulder boards*) and many policemen wore masks that completely covered their faces. In some cases only high-ranking officers wore the insignia that made possible their personal identification (*the officers' last names and the initial of the first names were indicated or they wore the insignia with their service ID number*). It should be noted that on numerous occasions policemen would forcibly take assembly participants to police departments in non-police vehicles as well as in public transportation vehicles the license plates of which were often missing or covered. Observers noted that uniforms of some policemen who performed official duties at assembly venues were not in compliance with required standards. Many police servicemen wore non-standard gloves that look very much like brass knuckles, while some policemen's shields were equipped with protruding metal screws.

According to the Police, presence of plainclothes policemen at assembly venues was accounted for by operational necessity, in particular, by the necessity of deterrence, prevention and suppression of administrative

offences and crimes. In the course of assembly monitoring, in 21 out of 158 observed assemblies (in the time period from July 2017 to June 2018) observers with Helsinki Committee of Armenia registered presence of plainclothes policemen⁷⁰. Plainclothes police officers also took part in forcibly taking assembly participants to police departments. This fact was confirmed by the statement that was issued by the Police on April 20⁷¹.

ACCOUNTABILITY OF THE POLICE

Excessive use of means of coercion against an assembly participant may entail disciplinary as well as criminal liability. In case of receiving information about alleged commitment of violence the authorized department undertakes internal investigation. If potential evidence of a crime is discovered, materials of the internal investigation are sent to the Special Investigation Committee so that a final criminal law assessment should be given to the action. In such cases the internal investigation can be suspended until a relevant decision about the police serviceman is made by the Special Investigation Committee or, if there is a decision, until the court judgment's entry into force⁷². Lawfulness of a serviceman's actions can be checked also on the grounds of a submitted relevant complaint in the course of the appeal procedure instituted

70 During the above-mentioned assemblies, observers with the Helsinki Committee of Armenia recognized some individuals, who were not wearing police uniforms, as the uniformed policemen who had been on duty at the venues of earlier assemblies.

71 See 20 April 2018 statement issued by the RoA Police. <http://www.police.am/news/view/%D5%B0220042018.html> (in Armenian).

72 See Paragraph 1 of Article 22 of the RoA Law on approving the disciplinary Code of RoA Police.

in the body of higher authority as well as within the framework of the suit submitted to the Administrative Court. An official letter submitted by the Human Rights Defender (Ombudsman) can serve as grounds for initiating an internal investigation. Depending on the nature of disciplinary violation, any disciplinary punishment of varying severity up to discharge from police service, as established by law, can be imposed.

Lawfulness of actions (on several occasions) of police servicemen, who were performing official duties with regard to maintaining public order and ensuring security during the assemblies that were held in April 2018, is being examined within the framework of the preliminary investigation conducted by the Special Investigation Committee. Some internal investigations that were conducted on the basis of an instituted criminal case are suspended. Within the framework of the said criminal case charges were brought also against former Deputy Head of the RoA Police Levon Yeranossyan on the grounds of violation of the criteria for the use of special means, when the latter were used against the participants of the assemblies held on April 16 and 22. In recent years this is actually the first case of conducting criminal prosecution of a high-ranking police serviceman who committed an offence during assemblies. However, it is only on completion of the criminal cases that it will be possible to give a comprehensive assessment of effectiveness of police servicemen's accountability.

Even though the legislative framework makes it possible to appeal against police actions in the course of assemblies to their superiors or to court of law, the experience shows that

appeals are not efficient⁷³.

MEDIA AND ASSEMBLIES

There are no legislative restrictions on media representatives as well as on civic reporters or non-accredited reporters with regard to coverage of assemblies. Furthermore, the RoA *Law on Freedom of Assembly* states that persons who are at an assembly venue because of their job responsibilities or for the purpose of engaging in creative activities and media people who provide coverage of the assembly are not considered assembly participants⁷⁴. Instances of impeding human rights defenders or observers are rare. For example, on 29 July 2016, during an assembly that was held in *Sari Tagh* neighborhood a policeman snatched video camera of observer from Helsinki Committee of Armenia. However, it was returned when a police officer intervened.

Here it is worth addressing instances of interference with and violence against reporters who were covering various assemblies. In early hours of 23 June 2015, while dispersing an assembly-sit-in staged by *No to Plundering!* Initiative, the police forcibly took 13 employees of media outlets to police departments and in the process damaged their equipment and committed acts of violence. The trial of the case of policemen who had committed violence against reporters ended with only 4 policemen punished with a fine of 500,000-600,000 AMD (967-1160 EUR) and a compensation of 485,000 AMD (938 EUR) was granted to *Utopiana.am* non-governmental organization for the damaged video camera.

⁷³ For more details see Criminalization of protests section.

⁷⁴ See Paragraph 4 of Article 6 of the RoA Law on Freedom of Assembly.

In the period of time from 11-23 April 2018, the *Committee To Protect Freedom of Expression* registered 18 incidents and 22 victims of physical violence against staff members of media outlets. Unprecedented violence was perpetrated against reporters during July 2016 assemblies. Violence peaked during the assembly held on 29 July in *Sari Tagh* neighborhood, when staff members of at least 9 media outlets were subjected to violence and threats⁷⁵. One reporter who was covering the assemblies pointed out that while being at some distance from the assembly venue on that day he did not dare approach and provide coverage out of concern for personal safety. In the period of time from 11-23 April 2018, the *Committee To Protect Freedom of Expression* registered 18 incidents and 22 victims of physical violence against staff members of media outlets and 8 instances of impeding reporters' activities⁷⁶.

11 criminal cases were instituted in connection with the incidents during the April 2018 assemblies and at present they are tried in court. The criminal case with regard to impeding reporters' and cameramen's professional activities and to committing violence in *Sari Tagh* neighborhood on 29 July 2016 was suspended because the accused have not been identified yet.

Internet-based media outlets and social websites play a fundamental role in terms of disseminating information about assemblies

⁷⁵ See the Report mentioned in footnote 14.

⁷⁶ See Quarterly report of CPFE on the Situation with Freedom of Expression and Violations of Rights of Journalists and Media in Armenia (April-June, 2018). <http://khosq.am/en/reports/2018-second-quarterly-april-june-report-by-the-committee-to-protect-freedom-of-expression/>



and of organizing assemblies. During the assemblies that draw huge crowds a number of Internet-based media outlets (*Radio Liberty*, *Civilnet*, *Factor TV*, *News.am*, etc.) frequently provide constant live streaming coverage. In recent years social networks have been actively used for organizing assemblies, in particular such platforms as Facebook and, starting with April 2018 assemblies, also Telegram. Almost all active civic and political initiatives post announcements on their Facebook pages about upcoming assemblies. An obstacle to the dissemination of information about assemblies through social websites was observed on 17 July 2016. A few hours after the seizure of the RoA Patrol Police regiment members of the civic Initiative *We are owners of our country* disseminated a statement urging the public to conduct an urgent assembly in Liberty Square on the same day at 12:00 p.m. Numerous users reported that the website was blocked for several hours. However, interference on the part of law-enforcement agencies was not proved or confirmed.





VI. CRIMINALIZATION OF PROTESTS

Offences that are related to the violation of the procedure for holding assemblies are addressed in the RoA Code of Administrative Offences, whereas more serious transgressions are dealt with in the RoA Criminal Code⁷⁷. As compared to earlier years, the number of instances of application of the above-mentioned penalties decreased noticeably. It should also be borne in mind that till the end of 2017 the number of the assemblies during which their participants blocked the lanes sections of streets or held assemblies near the locations outlined in Article 19 of the RoA Law on Freedom of Assembly (including buildings of the RoA President's Office and of the RoA National Assembly) also decreased. As regards numerous assemblies that were held in April-May 2018, as a result of which the then executive branch of government resigned, the criminal cases that had been instituted against assembly participants were dismissed⁷⁸.

Assembly participants and organizers usually face sanctions imposed for administrative offences such as conducting assemblies with

violation of the procedure established by law⁷⁹ or failing to comply with a lawful demand of military serviceman of police troops or of police serviceman⁸⁰. During several assemblies held in 2016, the police brought an administrative suit against assembly organizers. During the assembly, which was organized on 24 March 2016 by the Women's Front and the New Armenia Initiatives, some participants were forcibly taken to police departments. Those individuals had chained and nailed their hands in the lanes section of the street demanding that Gevorg Safaryan⁸¹ and other persons who had been deprived of freedom for political reasons be released. The Police filed administrative suits against assembly participants demanding that the latter be held accountable for two types of violations, viz. on the grounds of failing to perform their duties established by law and failing to comply with the legally required demands made by the police with regard to ensuring peaceful and

⁷⁷ Massive unrest (Article 225), Organizing and conducting an assembly with violation of the procedure established by law (Article 225¹).

⁷⁸ See the Report mentioned in footnote 7.

⁷⁹ See Article 180.1 of the RoA Code of Administrative Offences.

⁸⁰ See Article 182 of the RoA Code of Administrative Offences.

⁸¹ Gevorg Safaryan was a member of the oppositional New Armenia Initiative. He was detained during an assembly held in Liberty Square on 1 January 2016. He was released from prison on 13 June 2018.

normal course of the assembly. In case of 5 suits, the Administrative Court stated that the participants had violated the legally established procedure for conducting an assembly. Other 4 suits were dismissed. In case of the suits won by the police, the Court imposed fines of 50,000 to 100,000 AMD (96 to 193 EUR) on assembly participants. Assembly participants lodged an appeal with the Court of Appeals in 3 cases. One appeal was granted, the other one was rejected, while the court session for the third appeal was set for year 2019. The majority of assembly participants had a legal representative in court. It is noteworthy that the notion of the “normal course of the assembly” was given conflicting interpretations in the Administrative Court rulings depending on whether the appeal was granted or denied. Addressing the issue of the “normal course of the assembly,” the Administrative Court of Appeal noted that the legislator did not provide a substantive definition to the said concept⁸². When rejecting the appeal, the Court in its ruling qualified the limitation on traffic as a result of assembly participants’ actions as violation of the normal course of the assembly, whereas in the rulings that granted the appeal the Court did not qualified those actions as a violation. In particular, as regards the 47/2784/05/16 case the Administrative Court of Appeal noted:

“It follows from the said norms that disruption of the normal course of the assembly can be manifested by assembly participants’ attempts to undertake violent acts through violence and use or an attempt at use of force. [...] In the court’s estimation, assembly participants’ being in the lanes section of a street cannot

⁸² See 23 May 2018 Ruling of the RoA Administrative Court of Appeal in case 47/2784/05/16.

be qualified as disruption of a peaceful and normal course of the assembly because assembly participants from the very beginning selected this place as a venue for conducting their assembly. Therefore, the demand by the police to vacate the lanes section of Mashtots Avenue, even if it was made, could not be “the demand required by law” with regard to ensuring a peaceful and normal course of the assembly.”

In 2016, participants of another assembly were held administratively liable on the grounds of non-complying with a lawful demand of a police serviceman. The Police brought suits against the participants of the assembly held in front of the buildings of the RoA President’s Office on February 24 who were forcibly taken to police departments. As a result, 12 participants were fined 50,000 AMD (96 EUR) each. The grounds for the liability again were the assembly held in the lanes section of the street and failure to comply with police officers’ demand to vacate the place.

Instances of holding assembly organizers liable are very rare and when they are held liable it is again administrative liability. The Police brought 4 administrative suits with regard to the assemblies organized by civic activist Shahen Harutyunyan from March 17-20, 2017, i.e. 1 suit for each day demanding to hold him liable for staging those rallies *without duly informing the Community Head through the established procedure*. Those assemblies were organized in connection with the death

of Arthur Sargsyan (the “Bread bearer”)⁸³. The assembly participants demanded that he be buried in Yerablur Pantheon. It should be noted that the Administrative Court held Shahen Harutyunyan liable for one assembly since it regarded 4 assemblies as one on-going assembly held for the same reason and fined him 150,000 AMD (290 EUR).

In case of the administrative suits brought and won by the Police, yet another issue arises, viz. that of proportionality of imposed fines. It should be borne in mind that the minimum monthly wage in the Republic of Armenia is set at 55,000 AMD⁸⁴ (106 EUR), while in March 2016 the average wage was about 185,000 AMD⁸⁵ (355 EUR before taxes). It is obvious that fines of 50,000-150,000 AMD (96-290 EUR) can in fact be quite a severe penalty taking into consideration also the fact that the court did not impose any penalty at all on a participant of another assembly who committed the same action. The court reasoned that the said participant did not do anything beyond the obligation to maintain the normal course of the assembly. The European Court of Human Rights took the same position on fines pointing out that even the penalty at the lower end of the scale of disciplinary penalties may not be

⁸³ During the seizure of the Patrol Police regiment in Erebuni district Arthur Sargsyan brought food to members of the Sasna Tsrer group in his car. He was arrested on July 31, when the group surrendered to the law-enforcement agencies. On December 30, A. Sargsyan was released from detention; however, 2 months later he was again arrested. A. Sargsyan declared a hunger strike, as a result of which his health status deteriorated dramatically. He was transferred to a medical center and he died on 16 March 2017.

⁸⁴ See Article 1 of the RoA Law on the Minimum Monthly Wage.

⁸⁵ See data of the RoA Statistical Committee at https://www.armstat.am/file/article/sv_03_17a_142.pdf

imposed on a person for participation in the assembly that was not prohibited so long as the person concerned does not himself commit any reprehensible act on such an occasion⁸⁶.

Criminal prosecution of assembly participants and organizers is even a rarer occurrence but when it does occur, it happens in the context of the high-profile assemblies of very long duration that attract huge crowds. That happened during July 2016 and April 2018 assemblies.

A number of participants of the assemblies that were held in July 2016 were subjected to criminal prosecution on the charges of organizing mass disturbances in *Sari Tagh* neighborhood on July 29 and arrest was used as a measure of restraint (*Hovsep Khurshudyan, Davit Hovhannisyan, Vahagn Ghumashyan, Hovhannes Ghazaryan and Garik Arustamyan*). Criminal prosecution of the participants of the said assembly was terminated in May-June 2018 after the resignation of the RoA Prime Minister. At that time Gevorg Safaryan, a member of the *New Armenia* Initiative, was released from prison. During the April 2018 assemblies 41 persons were detained on suspicion of organizing and conducting unlawful assemblies as well as of committing disturbances and violence during those assemblies. However, criminal prosecution was terminated on June 21 by the RoA Special Investigation Committee.

ACCOUNTABILITY OF COURTS

Contradictive approaches, as well as unpredictability of court decisions in specific scenarios discussed above pose difficulties on assessment of neutrality and impartiality of

⁸⁶ See *Ezelin v. France*, application no. 11800/85, §53.

courts. Supervision over the court system, i.e. powers to give consent to subject judges to disciplinary sanctions, institute criminal cases against them or detain them, etc., is exercised by the RoA Supreme Judicial Council⁸⁷. Nevertheless, to the best of our knowledge, there has not been a single instance of holding a judge liable for the rulings made or the trials related to the right to freedom of assembly.

⁸⁷ Prior to the Constitutional amendments of 2015 this body was called Justice Council.



VII. RECOMMENDATIONS

Taking into consideration the current situation with the real opportunities to enjoy the right to freedom of assembly in the Republic of Armenia as well as the necessity of protection, we recommend the following:

To the RoA Government

Recall the *Draft Law on amending the Republic of Armenia 'Law on Freedom of Assembly'* that was submitted in 2017. Refrain from preparing draft laws that contain such restrictions on the right to freedom of assembly that conflict with international standards, in particular with the ECHR judgments that set a precedent and with the OSCE/ODIHR Guidelines. Collaborate with the civil society through duly organized public hearings if there is a need for legal amendments.

To the RoA National Assembly

Refrain from submitting the Draft Laws that contain amendments to the RoA *Law on Freedom of Assembly* envisaging such restrictions on conducting assemblies that conflict with the above-mentioned standards.

To the RoA Investigation Committee and Special Investigation Service

Carry out within a reasonable timeframe a

comprehensive and impartial investigation within the framework of criminal cases instituted with regard to violence against assembly participants and reporters during the assemblies that were held in July 2016 and April 2018 and identify all perpetrators.

To the RoA Police

Continue to improve negotiation skills of the policemen involved in administration of assemblies. Pay particular attention to strict compliance with standards for the use of physical force and special means during assemblies. Always wear a uniform and identification insignia when performing duties for maintaining public order. Exclude the use of special means in the policemen's gear by those servicemen who have not received specialized training envisaged by the RoA *Law on the Police*.

CASE STUDY

Observation of the assembly that was held in Yerevan on October 2

Organizer: N. Pashinyan (RoA Prime Minister⁸⁸)

Type of assembly: Urgent assembly (organized using Facebook Live Video Streaming)

Number of participants: at different hours at the venue there were from 7,500 to 26,000 participants

Number of policemen: 30-60 (from patrol and traffic police units)

Background context

On October 1, a draft law was put on the agenda of the RoA National Assembly, wherewith it was proposed to amend the RoA National Assembly Regulations Law. If that amendment had been made, the National Assembly sessions would have been considered interrupted, if parliamentarians cannot attend the session for the reasons beyond their control. According to N. Pashinyan, the goal of the draft law was to prevent snap elections, which are planned to be held in December 2018. The following scenario was put into circulation about the mechanism for making snap elections possible. The Prime Minister will submit his resignation, whereupon the National Assembly will twice fail to elect a new Prime Minister and will be dissolved by force of law⁸⁹.

⁸⁸ On 16 October 2018, N. Pashinyan tendered his resignation with a view to getting the RoA National Assembly dissolved by force of law. See: <https://www.youtube.com/watch?v=A4F7MjX1Jlg>

⁸⁹ See Article 149 of the RoA Constitution.

Use of social media

At 7 p.m., N. Pashinyan wrote a post on his Facebook page urging people to come to the National Assembly. This post was then followed by a video with a similar appeal, where N. Pashinyan announced that the *"RPA [Republican Party of Armenia] was going to convene an extraordinary session at 7:30 p.m. to get a vote on the draft [Law]."* He also called on *"those parliamentarians who do not think that they must oppose people power"* to not vote for the draft law. The video material was shared more than 18,000 and watched over 450,000 times.

The use of social media (*Facebook, Telegram*) as a tool for organizing urgent assemblies was actively used during the April rallies. Leaders of the *My Step* and other initiatives, as well as certain groups of protesters periodically used the live streaming to organize and guide the assembly⁹⁰. After the revolution, the same style was adopted by organizers of other assemblies (*for example, citizens fighting against the exploitation of Amulsar gold mine⁹¹, relatives and supporters of the Sasna Tsrer Group⁹² during May-June were announcing about the planned urgent assemblies through live broadcast*). Although the law requires the organizer of an urgent assembly to immediately inform the Police and the Authorized Body, the law does not specify the means of informing.

⁹⁰ See the Report mentioned in footnote 7.

⁹¹ "You do not have to wait for a general mobilization to be announced after the use of state leverage, your presence is needed at this moment". Vazgen Galstyan, 23 June 2018 https://www.facebook.com/galstyan.vazgen/videos/vb.100001423621645/1853510031373100/?type=2&video_source=user_video_tab

⁹² "Supporters of Sasna Tsrer blocked Arshakunyats Avenue. The court is in the consultation room". Hetq, 16 May 2018 <https://hetq.am/hy/article/88966>

Considering that no intervention by the police was conducted against these assemblies, it can be concluded that the message disseminated with the use of social media (*given that the message is public*) may be considered a proper mean of informing. It should be noted, that during the rally on October 2 The Head of the RoA Police V. Osipyanyan announced that *"citizens are not violating any regulations and are conducting an urgent assembly."*

Results of the observation

Shortly after the video material was posted, groups of people started gathering at the Baghramian Avenue and Demirchian Street intersection. Prior to 7:40 p.m. the participants congregated mainly at two entrances to the National Assembly with a view to not letting parliamentarians go in or out and thus preventing the vote. Until 8:30 p.m. traffic in Baghramian Avenue was blocked by traffic police vehicles. The entrance to the National Assembly from Demirchian Street was also blocked by protesters' cars. A separate group of people attempted to open the gate by pushing and pulling it.

At 9:15 p.m. N. Pashinyan made a speech at the assembly venue (in front of the building of the RoA National Academy of Sciences). In his speech he called on residents of other localities of the country to go out to central squares and to demand snap parliamentary elections⁹³. He also said that he would dismiss the Ministers and Regional Governors who represented ARF-Dashnaktsutiun and *Tsaruukyan* Alliance because those political forces voted for the submitted draft Law. After the speech, at 10:15

⁹³ According to media reports, at that time assemblies were simultaneously conducted in Gyumri, Dilijan, Vanadzor, Yeghegnadzor, Hrazdan and other localities.

p.m. N. Pashinyan entered the territory of the National Assembly to negotiate.

From 10:20 p.m. on, a group of assembly participants was gathering right in front of the national assembly building. The assembly participants were chanting: *"RPA, go away!"* and were verbally abusing RPA parliamentarians. At 10:50 p.m., N. Pashinyan, who was still in the National Assembly building, went on air through his Facebook page and called on the assembly participants not to chant any abusive words.

At 11:20 p.m., N. Pashinyan came out of the National Assembly building and made a speech again in front of the assembly participants, after which the participants marched along Baghramian Avenue and started to move away.

BIBLIOGRAPHY

Constitution of the Republic of Armenia (*with amendments introduced through a referendum on December 6, 2015*).

European Convention on Human Rights (*November 4, 1950*)

Guidelines on Freedom of Peaceful Assembly: Second Edition (OSCE/ODIHR, *October 25, 2010*).

RoA Law on Freedom of Assembly (*April 14, 2011*).

RoA Code of Administrative Offences (*December 6, 1985*).

RoA Criminal Code (*April 18, 2003*).

RoA Law on the Police (*April 16, 2001*)

RoA Law on approving the disciplinary Code of RoA Police. (*May 11, 2005*)

RoA Law on the Minimum Monthly Wage (*December 17, 2003*)

RoA Government Decree No. 151-N "On approving the procedure for police patrol service" (*January 11, 2007*).

RoA Government Decree No. 867-N "List of armaments and ammunitions included in the inventory of the Police of RoA" (*July 23, 2011*)

Order No. 09-N of the RoA Minister of Health "On establishing criteria for allowing the use of special means that are applied against a human being" (*April 20, 2012*)

RoA Government Decree No. 151-N "On approving the Code for the patrol service of the RoA Police affiliated with the RoA Government" (*January 11, 2007*)

Report on observations of the events that occurred and of the assemblies that were held in the Republic of Armenia in April-May 2018 (*Helsinki Committee of Armenia, August 6, 2018*).

Report on the Parliamentary Elections 2017 (*Helsinki Committee of Armenia, May 29, 2017*).

Report on the events that occurred in the Republic of Armenia from July 17 through August 5, 2016 (*Helsinki Committee of Armenia, August 9, 2016*).

Quarterly report of CPFE on the Situation with Freedom of Expression and Violations of Rights of Journalists and Media in Armenia (*Committee to Protect Freedom of Expression, April-June, 2018*)

Interim joint opinion on the Draft Law on Assemblies of the Republic of Armenia by the Venice Commission and (*Venice Commission, December 17-18, 2010*).

Draft joint opinion on the Draft Law of April 2008 on amending and supplementing the Law on conducting Meetings, Assemblies, Rallies and Demonstrations of the Republic of Armenia by the Venice Commission and OSCE/ODIHR (*Venice Commission, June 13-14, 2008*).

Draft Law on amending the Law on Freedom of Assemblies (*Unified Website for Publication of Legal Acts' Drafts, March 6, 2017*)

Draft Law on amendments to the Law on Freedom of Assembly (*National Assembly of the Republic of Armenia, September 28, 2018*)

Average monthly nominal salary per month by sectors of economy (*RoA Statistical Committee, April 28, 2017*)

Websites

DataLex judicial information system (www.datalex.am)

IRTEK Legal Information Center (www.irtek.am)

Official website of the National Assembly of the Republic of Armenia (www.parliament.am)

HUDOC European Court of Human Rights (www.hudoc.echr.coe.int)

Media

Radio Liberty (www.azatutyun.am), Civilnet (www.civilnet.am), Factor TV (www.factor.am), News.am (www.news.am), Henaran.am (www.henaran.am)



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

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



 **#right2freeassembly**