



**POLICY OPTIONS FOR IMPROVEMENT
OF ASSEMBLY POLICING MANAGEMENT
IN MOLDOVA**

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The policy research has been elaborated by Serghei Ostaf, director of Resource Center for Human Rights (CReDO).

Chapter on international experience and good practice has been incorporated from the research elaborated by Neil Jarman, director of the Northern Ireland Conflict Research Institute.

1. Introduction

Description of the problem

Freedom of assembly is at the core of democratic foundation of the state. Freedom of assembly rights together with the freedom of expression rights are the most publicly visible rights exercised in the society. Media and the society frequently judges on the state of the democracy based on the respect for and the exercise of these rights. Governments' image is considerably affected if it fails to enforce freedom of assembly rights.

Monitoring reports, studies and expert opinion consider that Moldova, since it adopted the new law on assembly in April 2008, the state of the freedom of expression has improved in the country. The number of assemblies has increased almost threefold, citizens has slowly started to build more confidence and self-awareness demonstrating this in public.

The exercise of the freedom of assembly rights could still be improved, as there are a number of cases when assembly rights are violated. Assembly rights violations result from the unjust police interference, abstention of police when aggressive third parties threaten or prevent the assembly organizers to exercise assembly rights. Apart from local administration frequent failure to perform adequately its duties, police remains by far at the core of the number of causes.

The policy paper has been commissioned to help understanding the exact nature of the causes of the police to failure to facilitate, protect assemblies, protect and maintain public order during the assemblies. The requested conclusions and recommendations are prompted from several recent authoritative opinions issued by the internationally specialized bodies. They provide general guidance to look into more depth in the police assembly management practice.

Objective

The objective of the paper is to provide policy solutions to improve police practice of the policing management of assemblies.

Methodology

Methods for the collection of the information includes: 1) comprehensive analysis of the legal provisions on the police bodies and relevant regulatory framework on policing of assemblies, 2) interviews with the police bodies responsible persons, 3) review of the available researches on assemblies in Moldova and good practices in other jurisdictions, 4) deconstruction of the assembly policing practice based on the collected information and analysis of other information, 5) documentation of the good practices in policing of assemblies available in other jurisdictions.

The analysis of the collected information has been performed based on the standard policy analysis method. Three policy options, including status quo situation are analysis and compared against each other based on the set criteria. The conclusions and recommendations are based on the findings.

The research has been performed during period of July-November 2009.

Road-map

The paper consists of several chapters. After the introduction, the second chapter deals with the comprehensive inventory of all police bodies involved in the police and management of assembly policing. Third chapter discusses tactical approaches, use of special means, and relevant professional education for the police officers. Fourth chapter brings the existing good practice and experience from other jurisdictions on the assembly policing. Fifth chapter reviews the existing quantitative and qualitative data and information on policing of assemblies in Moldova. The final chapter analyses the constructed policy options and provides conclusions and comprehensive recommendations.

Conclusions and recommendations

In the short run it is recommended to adopt the policy option for keeping organizational set up of police as it is, yet to act on changing and improving the tactical approach in assembly management. While in the mid-term and in the context of police reform to follow the policy option that will switch the responsibility of assembly policing to Scut police. In both policy options a substantial change in planning, risk assessment and police force deployment is necessary.

To match the existing and forthcoming challenges of assembly policing, a prevention assembly management specialized unit should be created, composed of at least 50-75 specially equipment policemen that would be primarily involved in the assembly policing. Equipping the police with personal protection means and general protection equipment relevant to the assembly policing is strongly recommended in any of the policy options preferred. The role of Carabinieri in policing of assembly should be downsized as Scut will be benefiting from some transfer of resources to take over this responsibility.

Paper elaboration

The paper has benefited from several reviews: Neil Jarman, director of the Northern Ireland Conflict Research Institute, Dace Lukumete, senior human rights adviser of the OSCE Mission in Chisinau and Ludmila Samoila, legal adviser from OSCE Mission in Chisinau and Florin Gisca, program coordinator, Resource Center for Human Rights (CReDO).

Abbreviations:

MAI – Ministry of Internal Affairs,

GPC - General Police Commissariat,

Police Commissariats - District or Rayon Police Commissariats, subordinated to General Police Commissariat for Chisinau City and to Ministry of Internal Affairs for Rayon Commissariats,

SCUT - Patrol and Guard Duties Police “Scut”, autonomous police agency, involved in the patrolling of public spaces and guard duties of governmental buildings, subordinated to General Police Commissariat,

FULGER - Special Brigade Police “Fulger”, autonomous police agency, subordinated directly to the Minister,

Carabinieri - Carabinieri Troops, autonomous police agency, enrolls military conscripts, subordinated directly to MAI.

2. Police Bodies Involved in Assembly and Public Order Policing

Responsibility for public order and for policing of assemblies is carried out by a number of police public order agencies. The chain of command is concentrated in the General Public Order Department that oversees the Police commissariats and the Patrol and Sentinel Police “Scut”. The Minister of Interior concentrates the command for Carabineri troops and the Special Brigade Police “Fulger”.

Policing of assemblies is the responsibility most frequently ensured by: policemen from the public order sections of the District Police Commissariats, General Police Commissariat and Patrolling and Sentinel Police Scut (Scut), especially when more demonstrators are on the street. Additionally, public order is maintained by Carabineri and exceptionally by the specialized police Fulger (Fulger); later is involved in the case of larger scale manifestations that devolved into violence.

The Government established the structure of the Ministry of Internal Affairs¹ so that it has central apparatus and Ministerial subdivisions that, inter alia, include subdivisions that have relevant responsibilities to the policing of assemblies:

- General Department of Public Order Police² (POP),
- Department of Carabineri troops³ (Carabineri), and
- Special Brigade Police “Fulger”⁴ (Fulger).

General of the Public Order Police includes Public Security Section⁵ that oversees the Public Order Policemen within the Police Commissariats. The leadership of the Ministry of Interior is exercised by the Minister of Interior who is personally accountable for the realization of the objectives of the ministry. The minister directly coordinates and supervises the Department of Carabineri, appoints and dismisses the heads of the Department and Subdivisions of the Ministry, heads of Police Commissariats and head of the Police Academy.

Police has the mandate to maintain public order and ensure public security⁶. According to Law on Police, Police is separated into central and municipal jurisdiction. Municipal police is controlled by both Ministry of Internal Affairs and municipal authorities. For municipal police, Ministry of Internal Affairs provides methodological and regulatory support, while the municipal authorities support it financially⁷.

¹ Government Decision Nr. 844, din 30.07.1998 cu privire la structura organizatorică, limita efectivului și Regulamentul Ministerului Afacerilor Interne <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=296858>

²In Romanian: Direcția generală poliție ordine publică

³ In Romanian: Departamentul trupelor de carabinieri

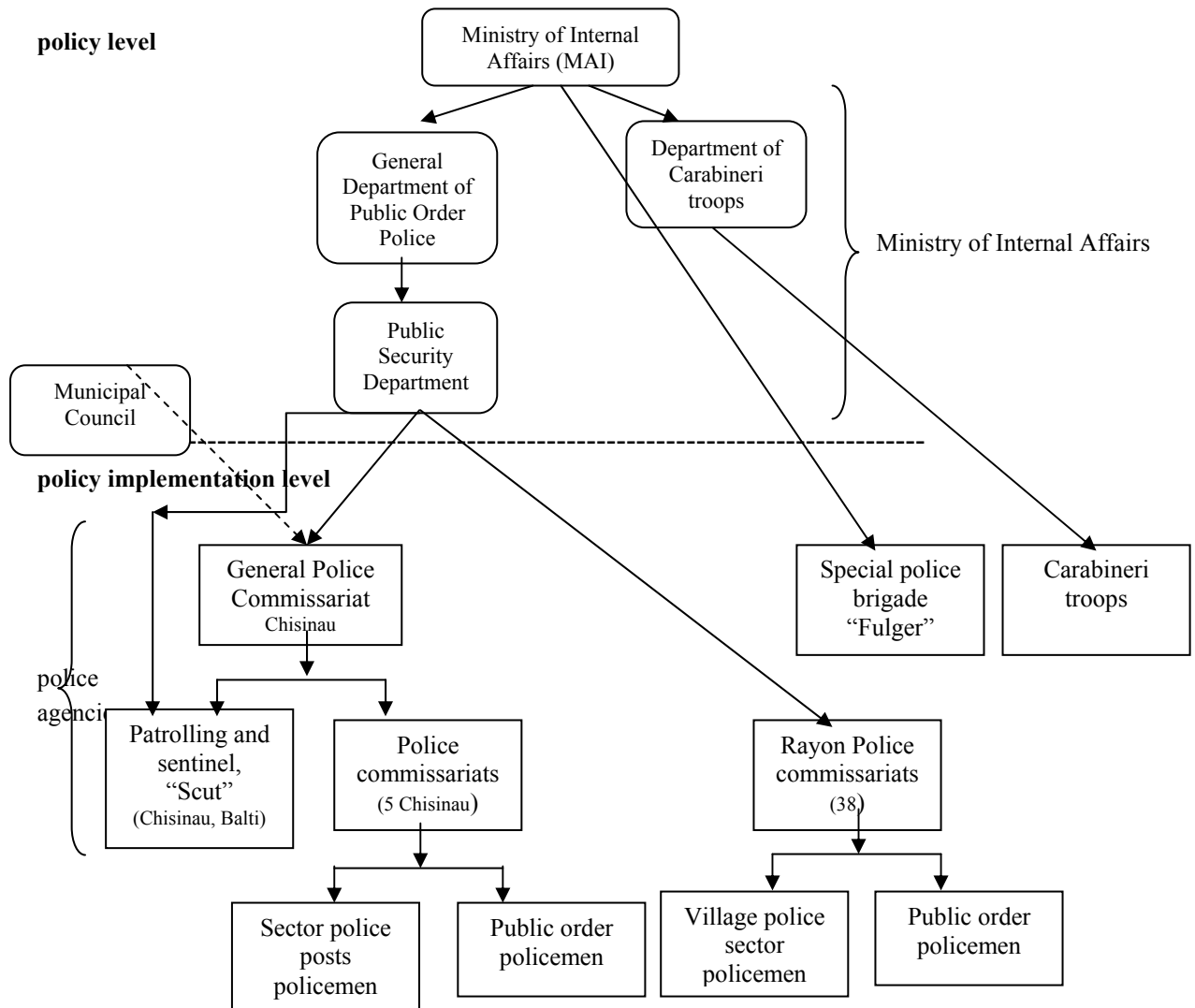
⁴ In Romanian: Brigada de poliție cu destinație specială "Fulger"

⁵ Direcția Securitatea Publica

⁶ Law on Police 31.01.2002 în Monitorul Oficial Nr. 17-19 Nr : 56, Law on Police, Articolul 2. Sarcinile principale ale poliției. Sarcinile principale ale poliției sînt: 4) menținerea ordinii publice și asigurarea securității publice;

⁷ In Romanian: Articolul 9. Competența Ministerului Afacerilor Interne în sfera de activitate a poliției pentru menținerea ordinii publice și combaterea criminalității Ministerul Afacerilor Interne: ... 3) coordonează activitatea poliției de stat și a poliției municipale; ... 8) exercită conducerea generală a activității de menținere a ordinii publice, a asigurării securității publice; ... 9) conlucrează cu organele de drept din alte state și cu organizațiile internaționale în problemele de combatere a criminalității și de ocrotire a ordinii publice; 2. Ministerul Afacerilor Interne acordă în caz de necesitate ajutor poliției municipale pe teritoriul unității administrativ-teritoriale respective cu forțele și mijloacele poliției de stat.

Police authorities involved in the assembly policy policing as part of the public order maintaining



Legend:

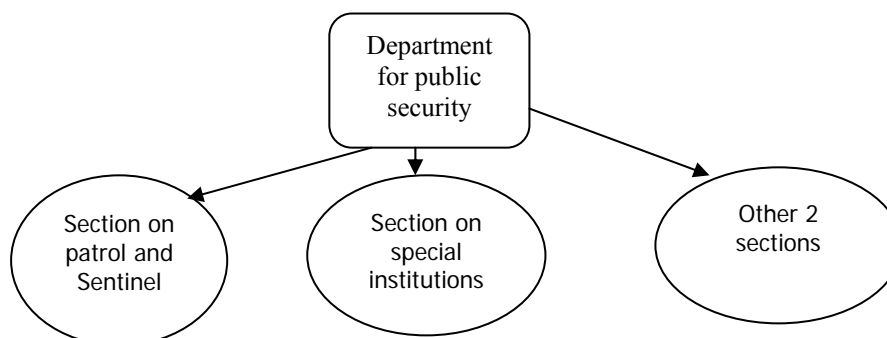
1. General Police Commissariat is subordinated to both MAI (through Ministerial Public Security Department) and Municipal Council; Part of finances (public order police and sector policemen, maintaining of the building) comes from Municipal Council and part comes from MAI (criminal police, administration, etc).
2. Patrolling and Sentinel Police Scut (exists in Chisinau and Balti) is subordinated to the General Police Commissariat and is integrally financed from the Municipal Council (salaries and administration).
3. Police Commissariats (5 sectors in Chisinau and rayon Police Commissariats) have in its components public order policemen and sector policemen. Public order policemen are the criminal investigators that investigate cases of the violations of public order and sector policemen work within the police sector posts (in Chisinau) and in villages (rayon Police Commissariat).
4. Fulger and Carabineri receive 100% of finances and are subordinated to MAI.

Relevant to public order maintaining Personnel of the Ministry of Internal Affairs (MAI) involved in the policing of the assemblies

Nr/o	Name/Denumirea	Total staff Nr. total al personalului	Including (inclusiv):		
			Ofițeri (officers)	Sub-ofițeri (under-officers)	Ofițeri
1.	Public Order General Department /Directia Generala Ordinea publica (subdivision of MAI)	50	50	0	0
2.	Police Commissariats/ Comisariatele de poliție (subordination to MAI, local authorities)	9 048	5 191	3 292	565
3.	Carabinieri Troops/ Departamentul Trupelor de Carabinieri (direct subordination to the minister of interior)	2 710	367	633	6
4	Patrolling and Sentinel Police "Scut"/ Politia de patrula si santinela Scut (subordination to General Police Commissariat)	720			
5	Special Brigade Police "Fulger/ "Brigada de Politie specială „Fulger”	650			

2.1 Public Order Police Entities

General Department of Public Order Police (Direcția generală poliție ordine public)⁸



This Department of the Ministry has several generic functions: 1) Policy analysis and policy elaboration; 2) Supervision and coordination of policy implementation; 3) Oversight and supervision of subordinated subdivisions. Public Security Department⁹ is part of the General Department for Public Order. This Department includes Section on Patrolling and Guard

⁸ <http://www.mai.gov.md/dgpop>, In Romanian: Sectiile si directiile care fac parte din aceasta directie: Secția analiză și planificare; Direcția profilaxie (politia de sector), Direcția securitate publica, Direcția poliției judecătorești, Direcția poliției rutiere, Direcția combatere a migrației ilegale, Centrul de plasament temporar al străinilor.

⁹ In Romanian: Direcția securitate public, http://www.mai.gov.md/dsp_dpop

Duties¹⁰. The Section on patrolling and sentinel has the core obligation to organize, manage and oversee the activities of the maintaining of public order. It employs 4 staff, the chief is appointed by the minister¹¹.

The functions of the Direction for public security are realized through the Section for patrol and sentinel (as provided in the internal regulation for the Section):

Policy analysis and elaboration	Coordination of policy implementation	Oversight and supervision of subordinated subdivisions
<p>-Determines the priority areas of activity of the subordinated subdivisions based on the analysis of the created situation and elaborates measures and activities to maintain public order and combating criminality;</p> <p>-Studies and analysis the conditions and causes that determined and favoured the criminal acts and analysis dynamics and evolution of the offences;</p>	<p>-Ensures organization, management and supervision of the subdivisions responsible for the maintaining of the public order that are part of the Ministry of Internal Affairs;</p> <p>-Ensures the implementation of the state policy regarding the protection of citizens' liberties and freedoms, keeping public order and combating criminality</p> <p>-Provides exchange of the information with other relevant services and institutions</p> <p>-Implements and develops informational systems necessary for the activity of the subordinated subdivisions;</p> <p>-Ensures the adequate dislocation of the police force to maintain public order;</p> <p>-Determines tasks that deal with the organization of the patrolling and sentinel forces in order to maintain public order;</p> <p>-Coordinates the activities of its subordinated subdivisions and organizes public order during the mass demonstrations, intervenes with the situations to restore public order and handle mass disturbances;</p> <p>- Ensures the organization and management of the preventive detention isolators and other police managed places of detention</p>	<p>-Generalizes the results of the activity of the responsible subdivisions and drafts policy and legal proposals;</p> <p>-Examines complaints and petitions on the activities of the relevant subordinated subdivisions.</p>

The Section on Patrolling and Guard Duties has the statutory rights for¹²: requesting any information from its subdivisions; verify any act or document conducted by the public order

¹⁰ http://www.mai.gov.md/patr_sant

¹¹ In Romanian: În structura organizatorică a S.P.S. sunt incluse următoarele funcții: a) șef al Secției patrulă și santinelă, șef adjunct al Direcției securitate publică - 1; b) inspector principal - 2; c) inspector superior - 1. S.P.S. este condusă de către șeful secției patrulă și santinelă, șef adjunct al Direcției securitate publică, subordonat nemijlocit șefului Direcției securitate publică și direct șefului D.G.P.O.P. Șeful S.P.S. este numit și eliberat din funcție de către Ministrul afacerilor interne la propunerea șefului D.G.P.O.P.

¹² In Romanian: În scopul îndeplinirii atribuțiilor sale, colaboratorii S.P.S. au dreptul: a) să solicite orice informație din subdiviziunile teritoriale referitoare la combaterea criminalității și menținerea ordinii publice; b) să primească informații privind activitatea de serviciu a subdiviziunilor de menținere a ordinii publice; c) să ia cunoștință, să verifice, iar după necesitate, să ridice documentele și actele perfectate și întocmite de către colaboratorii poliției de ordine publică; d) să pregătească și să expedieze spre executare organelor teritoriale indicații și interpelări privind activitatea de menținere a ordinii publice și combatere a criminalității; e) în timpul efectuării anchetelor de serviciu, să citeze în M.A.I. sau în alt loc de serviciu orice colaborator al poliției, pentru clarificarea circumstanțelor și primirea explicațiilor; f) să emită proiecte de ordine, dispoziții și indicații, să propună spre anulare sau revizuire actele normative, ordinele sau indicațiile care contravin legislației.

police; carry out investigations on the actions of the policemen; issue dispositions for execution of orders; issue dispositions that annul decisions of subordinated agents.

2.2 Public Order Sections in Police Commissariats

Police commissariat's organization and management is provided in the Regulation on the Municipal police organization¹³. Municipal police is financed from the municipal budgetary and extra-budgetary sources of finance of the local public administration. The annual budget of the municipal police is approved by the municipal authorities. Ministry of Interior elaborates the structure and the functions of the municipal police.

Municipal police involved in the maintaining of public order and policing of the assemblies is represented by police sector inspectors and patrolling and sentinel. Their key relevant function is¹⁴ to oversee of the respect of the public order on the streets in public spaces.

2.3 Patrolling and Sentinel (Guard Duties) Police SCUT

Patrolling and Sentinel Police "Scut" (translated as Shield) has been created to maintain public order in the municipalities of Chisinau and Balti.¹⁵ One of the key objectives of Scut is to maintain public order during the mass and large scale manifestations. Patrolling and sentinel police exist also outside of Chisinau and Balti at the rayon level authorities, though their number is limited to around 30 units. We refer in this section to Scut patrolling and guard duties as the public order forces active in Chisinau and Balti only.

Scut realizes its core functions by patrolling streets and public spaces, ensures security of citizens during the public manifestations, detain persons who have violated the administrative rules, takes video registration of the persons who violate public order, limits temporarily the public transportation, participation in the liquidation of the mass disturbances of public order¹⁶.

¹³ Government Decision Nr. 139, din 20.02.2001 cu privire la aprobarea Regulamentului poliției municipale a Inspectoratului General de Poliție <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=295812>

¹⁴ In Romanian: 11. Întru executarea sarcinilor date în seamă, poliția municipală îndeplinește următoarele atribuții: 1) apărarea vieții, sănătății, demnității și averii cetățenilor în cazurile în care ei sînt amenințați de acțiuni ilegale; 2) supravegherea respectării ordinii publice pe străzi, artere rutiere și în alte locuri publice în vederea asigurării ordinii publice și securității personale a cetățenilor;

¹⁵ Government Decision nr. 326 din 22.05.1995 „Cu privire la unele măsuri de intensificare a combaterii criminalității în municipiile Chișinău și Bălți”;

¹⁶ In Romanian: a) efectuează audiența cetățenilor spre realizarea drepturilor și intereselor legitime ale acestora, în limitele competenței serviciului respectiv; b) efectuează controlul respectării legislației privind securitatea publică prin efectuarea serviciului de patrulare pe străzile, parcurile, piețele, scuarurile și alte locuri publice, conform sistemului unic de dislocare al mun. Chișinău; c) asigură securitatea cetățenilor și ordinea publică pe timpul desfășurării întrunirilor, precum și pe timpul aflării în țară a delegațiilor de stat și guvernamentale din alte state; d) întreprinde măsuri de preîntîmpinare, curmare și contribuie la descoperirea infracțiunilor; e) are dreptul de a cere de la cetățeni și persoane cu funcții de răspundere, actele de identitate și alte acte oficiale, în scopul stabilirii respectării normelor juridice, a căror executare este supravegheată și controlată de poliție; f) reține persoanele, care au comis contravenții administrative, infracțiuni sau sînt anunțate în urmărire generală; g) stabilește persoanele care duc un mod de viață antisocial și întreprind măsuri în conformitate cu legislația în vigoare; h) efectuează fotografierea, înregistrarea sonoră și video a persoanelor care încalcă ordinea publică; i) limitează temporar sau interzice circulația transportului și a pietonilor pe străzi și pe drumuri, precum și accesul cetățenilor pe anumite porțiuni de teren și spre anumite obiecte în scopul asigurării securității publice, ocrotirii vieții, sănătății și averii cetățenilor, efectuării unor măsuri de procedură și de investigație operativă; j) acordă ajutor populației și salvează bunurile materiale pe timpul calamităților naturale, avarii, catastrofe, epidemii, epizotii. k) participă la lichidarea tulburărilor în masă a ordinii publice și a altor acte ce violează sau periclitează ordinea de drept; l) informează populația prin intermediul organelor de informare în masă, despre situația ordinii publice, cauzele și măsurile de profilaxie ce se impun; m) participă de comun acord cu alte subdiviziuni ale poliției organele administrației publice locale, organizațiile obștești la realizarea măsurilor de profilaxie îndreptate la asigurarea ordinii publice și combaterea criminalității.

Scut structure is provided as below:

Leadership, staff major	
<p>Support units:</p> <ul style="list-style-type: none"> - Juridical Unit, - Personnel and education, - Medical service, - Accounting and secretariat, - Logistics service, - Telecommunications unit. 	<p>Supervision unit:</p> <ul style="list-style-type: none"> - Supervision and Internal Security Service, <p>Operational units:</p> <ul style="list-style-type: none"> - Compating offences in public, spaces and urban transport service, - Structural campaigns, - Horse troops.

Scut provides patrolling and guarding duties services 24 hours a day. There are around 750 Scut policemen, of which only 50 are in the administration of the Scut. Each district of Chisinau has a police company (police unit organization) that is involved in the maintaining public order during the mass demonstrations, provide 911 emergency service, and patrolling public spaces.

The organization of each district company of Scut police is as follows: two patrolling units and one emergency 911(903) service, therefore the whole staff available in each district is around 85 policemen and around 350-380 policemen per Chisinau. Overall Chisinau Scut has to patrol around 450 pedestrian routes. In Balti, the total number of Scut policemen is 120 and a patrolling and sentinel troops in Cahul is 40 policemen. Most of Chisinau Scut policemen originate outside of Chisinau (only 7% from Chisinau).

As the Police College has been closed in 2006, the professional preparation of the Scut policemen has come under the responsibility of Scut itself. The professional preparation program is organized for the period of 6 months in combination of practical skills training and theoretical courses. Overall, it lasts for 6 months to prepare the body of sergeants. Mostly the Scut policemen come from the Carabinieri enrolled conscripts who have completed their serves in the army. The 6 months course combines 2-3 days of theoretical training and 2-3 days of practical patrolling. The theoretical training includes: special tactics, including patrolling, use of arm, use of special equipment (60 hours), medical preparation, shooting, legal education (Criminal Code, Administrative Code), topography, etc.

The quality of the professional training for Scut police relating to the assembly management is inadequate. From the theoretical perspective it comprises of the review of the law on assembly, learning of the algorithm for reacting to the some specific situations and cementing these algorithms while practicing the situations being part of the patrolling groups. Based on the trainings held with the Scut policemen where we have used cases studies and situations against the legal provisions, one can make the conclusion, drawing of on the responses from the policemen, that there is a need to review and update the response schemes and develop a more schemes for various situations that appear in practice.

Scut is accountable to the General Police Commissariat and is financed from the money provided by the Municipal Council. Municipal Council does not have outstanding payments for the salaries and costs of personnel, outstanding payments remain only with reference to the indirect costs and costs of the equipment, etc.

From the discussions with the Scut leadership, Scut faces several difficulties in relation to its needs for technical equipment and personal protection equipment:

- 75% of all equipment is outdated and old that have been for 12-13 years in use, as cars, patrolling machines, etc,
- Inadequate personal protection equipment while patrolling and maintaining public order: helmets, protective vests, shields, etc all are outdated from '90s;
- Absence of the water cannon, ribbon bullets, tear gas equipment and other defensive public order maintenance equipment;
- Absence of the video registration equipment (including special vehicles) of the major public spaces to complement or substitute the patrolling services,
- Absence of sound equipment to communicate with the assembly organizers and participants.

Scut does not have a specialized site to exercise its public skills and train tactical knowledge of assembly public order maintenance.

Scut leadership has expressed several wishes in regarding insufficient skills and tactical knowledge related to:

- management of crowds,
- psychology of crowds,
- communication and negotiation during mass-demonstrations;
- use of various tactics to calm down and de-escalate the aggressiveness;
- human rights during assembly demonstrations.

2.4 Carabinieri Troops¹⁷

Carabinieri troops are subordinated directly to the Carabinieri section of the Ministry of Internal Affairs. Their key role is to ensure public order, protection of diplomatic status buildings and other state buildings. The Carabinieri troops have been created as military units within the Ministry of Internal Affairs¹⁸. Carabinieri cooperate with and support police in the maintenance of public order. Law on Carabinieri troops provides that¹⁹ the Ministry has the full control and supervision of the Carabinieri troops. The only difference Carabinieri has is that they cannot document cases of public order violations.

Organizational structure and the staff allocation are approved by the President, while the organization of the internal units by the Minister of Interior. Carabinieri companies ensure public order on the territory of a number of localities. Platoons, smaller units making up into companies, ensure public order in 3-5 communes and a group of Carabinieri ensures public order in one commune under the command of the commune police. Key functions of the Carabinieri are: patrolling, sentinel and maintenance of public order, cooperating with police in preventing crimes, participate in maintaining public order during large scale manifestations.

Overall, the force of Carabinieri is about 1 500-1 700 persons, of which around 500 are police officers employed by MAI. Apart from the officers, the staff of Carabinieri is composed of the

¹⁷ <http://www.mai.gov.md/deptc>

¹⁸ In Romanian: LEGE Nr. 806, din 12.12.1991, cu privire la trupele de carabinieri (trupele interne) ale Ministerului Afacerilor Interne <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=312878>

¹⁹ In Romanian : LEGE Nr. 806 din 12.12.1991 cu privire la trupele de carabinieri (trupele interne) ale Ministerului Afacerilor Interne <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=312878>

conscripts that serve in Carabinieri forces for 12 months, of which 6 months is a sort of preparation and training. The enrolled conscripts are not unpaid for the service in the Carabinieri troops. Carabinieri troops have the core personnel as officers who receive the education from the Police Academy. One section from Carabinieri command headquarter is responsible for the professional development is responsible for the updating the skills and knowledge. The Carabinieri force is organized in 6 brigades, of which 2 situated in Chisinau and one in Ciorescu community, 1 – in Balti, 1 – in Comrat, 1 – in Causeni. The patrolling equipment contains: helmet, truncheon, shields and bullet-proof vest – all are of the Soviet Union production time and 90% of this equipment is outdated.

Crabineri troops have a specialized space outside of Chisinau that designated for maneuver and outdoor exercises, where there is an old building. This site is used for practical exercises.

Each Carabinieri policemen undergoes a professional course, designed and conducted by the staff from within the Service, that includes:

- use of personal equipment;
- human rights;
- managing public order;
- use of the special means.

These courses are being applied in practice every-day and later on discuss during the theoretical courses.

While discussing with the leadership of the Carabinieri troops, one gets the understanding that patrolling assemblies' logic involves the following four stages:

- 1st stage – maintaining peaceful demonstrations, where Carabinieri are not present and do not have any role,
- 2nd stage – the assembly demonstrators grow in numbers and in size, becoming crowd, where the role of Carabinieri is to contain the crowd and to prevent escalation,
- 3rd stage – demonstrators become violent, here the role of Carabinieri becomes evident and they are involved in the dispersion of the violent crowd.
- Finally the 4th stage – the violence is abundant and here the role of Fulger is critical to intervene and disperse the violent crowd, whereas the role of Carabinieri is to support the action of Fulger.

Carabinieri troops' leadership has expressed several wishes in regarding insufficient skills and tactical knowledge related to:

- management of crowds,
- psychology of crowds,
- communication and negotiation during mass-demonstrations;
- use of various tactics to calm down and de-escalate the aggressiveness;
- human rights during assembly demonstrations.

In practice, Carabinieri troops are permanently involved in the policing of assemblies alongside the police and particularly Scut police.

2.5 Specialized Brigade of Police FULGER²⁰

²⁰ <http://www.mai.gov.md/fulger>.

Special Brigade of Police “Fulger” based on the Decision of the Government in 1991²¹ has the duty to: a) ensure maintenance of the public order during large scale manifestations, b) liquidation of disturbances in public spaces and c) disarmament of armed criminals. Fulger has been created on the bases of OMON (Specialized Policy on Duty).

Fulger police has several duties: freeing hostages, catching and chasing down the most dangerous criminals and escaped detainees (together with the specialized Penitentiary force – Pantera of Ministry of Justice), intervening in the exceptional situations (together with troops on exceptional situation), protecting of witnesses in criminal procedures. Apart of these functions, Fulger is also called in to intervene to protect public order when the demonstrations and assemblies become particularly violent.

The overall force of Fulger is around 650 persons. Fulger equipment is adequate from the perspective of the all personal protection equipment they have: shields, protective bandages, protective vests, helmets, etc. Fulger has also a number of passive and active special means available, yet it lacks water cannon, specialized armored vehicles.

Fulger has the special means of active and defense type: tear gas (various types), special equipment (“Uragan”, personal equipment as shields, protective vests, and helmets).

Fulger states that they lack the following equipment:

- water cannon,
- transportation means (very old cars going 60 km per hour),
- modern motor vehicles to maintain public order.

Fulger leadership has expressed several wishes in regarding insufficient skills and tactical knowledge related to:

- psychology of crowds,
- negotiations to free of hostages,
- communication with difficult persons,
- communication and negotiation during mass-demonstrations;
- use of various tactics to calm down and de-escalate the aggressiveness;
- human rights during assembly demonstrations.

2.6 Chapter Discussions and Conclusions

In this section we discuss the conclusions on the correlations in the work of the various institutions regarding the management and facilitation of the freedom of assembly. Particularly we focus on the following aspects:

- 4 distinct bodies involved in policing (District Commissariat/Police Commissariat, Scut, Carabineri, Fulger),
- Several lines of subordination: local authorities, central authorities,
- No specialized and specially skilled units in assembly management,
- Absence and inadequacy of skills formation on assembly management and equipment,
- Few concentration of the assembly management skills (only selected number of people as vice-commissars, heads public order and vice-minister).

²¹ In Romanian: 05.12.1991, by Government Decision Nr. 677-4, în urma unirii a două unități ale MAI - Batalionul separat de poliție cu destinație specială și Batalionul Nr. 1 de patrulă și santinelă al mun. Chișinău - a fost creată Brigada de poliție cu destinație specială (BPDS) „FULGER

The law on assembly provides explicitly for the role of the police: 1) facilitation of the assemblies, 2) protection of the assemblies and 3) maintaining the public order during the assemblies. The role of each police body and collectively of all bodies should be judged against the realization of these objectives.

Four police bodies are involved in the realization of the three-fold objective in Moldova. The complexity of the situation is additionally given by the fact that all of them have different chain of command from the operational point of view and different line of accountability in general. Public order policemen and sector police are subordinated to the commissar of district police and correspondingly accountable to the local authorities for the performance and finances. At the same time these policemen are involved only in the documentation and monitoring of assemblies. Scut police is subordinated operationally to the General Police Commissariat, yet they have their own leadership and institutional autonomy and their line of accountability goes to local authorities on finances whereas performance to Ministry of Interior. Finally, Carabinieri are subordinated operationally to the Ministry of Interior, yet enjoy an institutional autonomy and are also accountable to the Ministry of Interior.

Judging on the legal mandate of these police bodies and the practice of assembly policing, maintaining of public order has been so far the only objective the police bodies have been engaged with. Facilitation of assemblies and protection of assemblies have been the objectives left outside of the responsibilities of the police. Indeed, Public order policemen and sector police have been only engaged in the documenting of cases of violation of public order. Scut police has been involved in keeping the public order in place and Carabinieri have played some minor role in maintaining of public order alongside the Scut police. This leaves the facilitation and protection of assemblies without proper attendance.

The law on assembly objective to facilitate the assemblies implies the following actions by police: open and supportive dialogue, communication to create friendly environment for assemblies, advice on the unforeseen circumstances. Therefore, the necessary skills of the police relate to the communication with the organizers, building trust in communication, listening to the needs of the organizers. The second objective is protection for the assembly organizers that means skills in understanding possible factors of disturbance, negotiation about the possible changes in the assembly organisation. These skills do not find itself in the police preparation and often are damaged given the fact that the overall image of police is not adequate. Finally, the objective to maintain public order means balancing various interests of organizers and of others but also keeping the peacefulness of the event. The necessary skills are those of understanding the risks, dealing with difficult people, negotiation with difficult people, taking decisions to mitigate the potential development into crises situation and also understanding the tactical actions. Documentation of violations of administrative or criminal laws is one of the skill and legal knowledge that is relevant to the last objective.

Operational complexity and several lines in the subordination of various police bodies create disincentives in the more coordinated and constructively engaged role of police in assembly management. Additionally, the skills developed in the various police bodies spread broadly, yet mostly concentrated on the public order policing. The later means particularly skills related to the approach that sees assemblies as phenomenon that creates the disruption in the still public order. Thus assembly themselves are considered as deviation from the public order. In combination the complexity of line of subordination and the approach that views the assemblies as the target of potential police intervention results into the confrontational approach towards the assemblies and their organizers.

Concentration of the right type of skills related to the assembly management and respective attitude in police is very low. Police leadership attitude has been one of the factors that encouraged police confrontational approach towards the assemblies. Legal mandate of all police bodies have supported and reinforced the same approach. From the current institutional outlook, Scut police seem to be the most relevant police body to engage in the assembly facilitation together with the local administration. Yet, Scut police is the weakest and least prestigious place to work of those reviewed. The fluctuation of cadre in Scut police is the highest, the ordinary policemen here has some 3-6 month of initial training only, people staying at best some few years, therefore the concentration of policing skills is very thin. Same is true for Carabinieri troops that are conscripts.

Scut police lacks the basic equipment necessary for the management of assemblies. Looking at the various types of equipment in Scut police and Carabinieri troops, one does not find the spectrum of equipment that is generally used in the assembly management. Particularly, personal equipment is almost absent; sound and communication equipment is absent. Most importantly assembly management skills are not concentrated in the Scut police officers but in the commissars of district police or public order heads of commissariats that lack the chain of command for Scut policemen. Evidence from interviews with the assembly organizers show that the communication with police relates to the command and restriction imposition kind of attitude.

Increasing number of assemblies, particularly small and medium size assemblies, prove that assembly management skills should be build at the mid level policemen of officer level in Scut policemen, Carabinieri policemen and public order heads of district police or General Police Commissariat. Currently, the 5 relevant police commissars and in practice 2 where most of Chisinau assemblies take place²² as well as 2-3 public order heads should be dealing with around a hundred assemblies per month. This makes certainly for all of them a more than full-time job only in managing assemblies. This suggests the need to develop and spread more assembly management skills among the mid level officers.

²² Buiucani district and Centru district

3. Policing Assemblies Approaches and Tactics – Moldovan Practice

This chapter deals with the practical aspects of management of the assemblies by the police, use of special means during the demonstrations and practical training received by police in the area of assembly management. This chapter tries to gauge police assembly management tactics against the three objectives: 1) facilitation of assemblies, 2) protection of assemblies and third parties and 3) public order maintenance.

3.1 Assembly Policing Tactics

Policing tactics and cooperation among various police units in ensuring public assemblies is not elaborated in detail in any of the internal regulations available for public review. Moreover, during the interviews and discussions with the various police officers it became clear that there is some internal institutional order or even so called classified regulation on the management tactics of policing of assemblies. The information provided below is based on the verbal statements and the evidence from the monitoring of the assemblies where the particular actions of the police could be observed²³. Therefore, in this section we describe the tactical approaches in policing of the assemblies.

One distinguishes 3 generic situations:

- Situation 1: Small or medium scale demonstration of roughly less than 100-200 persons²⁴ and the event takes place not in the central part of Chisinau;
- Situation 2: Small or medium scale demonstration of roughly less than 100-200 persons and the event takes place in the central part²⁵ of Chisinau;
- Situation 3: Large scale demonstrations taking place in any part of Chisinau.

Situation 1: Small or medium scale demonstration of roughly less than 100-200 persons and the event takes place not in the central part of Chisinau

This situation is under the management of the vice-commissar from the relevant sector Police Commissariat of Chisinau responsible for the maintaining and policing of public order. The responsible vice-commissar manages the situation with the assistance of the public order policemen from the respective sector commissariat and, if necessary, with the Scut policemen support.

In practice, if the assembly is notified²⁶, the General Police Commissariat receives from Chisinau city hall notification information on to be held assembly. In most cases it transfers the responsibility for the public order management to the relevant sector Police Commissariat. Public order responsible vice-commissar creates a documentation group of around 5-7 policemen and requests the support from the Scut patrolling units, and finally undertakes the management control of the entire event. The size of the Scut patrolling unit depends on the size of the demonstration, but some methodological guidance revealed during the discussion suggests a rate

²³ It has been regrettable that this internal regulation is classified and is not available for the review

²⁴ This includes also a number of subclass assemblies as less numerous manifestations (less than 50 persons)

²⁵ Central part of Chisinau means: Presidency, Parliament, Government, Chisinau City Hall, various ministerial buildings and Courts buildings.

²⁶ If the assembly is not notified or the assembly falls under the exempted from the notification type of assemblies, the information on the carried out assemblies could reach police from the patrolling units of Scut police or other public order agents. Once the event is reported to the headquarters of the Scut patrolling police, the relevant headship of the Scut police informs General Police Commissariat that later takes control of the situation.

of 1 patrolling policemen to roughly 10 demonstrators, yet all this depends on the practical situation. The documentation group includes an expert that will record the whole event.

The scope of the documentation group is to document the behavior of the demonstrators and other groups from the perspective of the maintenance of the public order. The vice-commissar on the ground has under his command also Scut patrol units, the later have the objective to maintain public order.

Situation 2: Small or medium scale demonstration of roughly less than 100-200 persons and the event takes place not in the central part of Chisinau;

This situation is under the management of the General Police Commissariat (either head/deputy of the public order direction or a vice-commissar) assisted by the public order policemen and Scut policemen. Similar to the previous situation, yet this time under the headship of General Police Commissariat two groups of policemen are created: 1) documentation group of around or more than 5-7 policemen, and 2) support from the Scut patrolling units and sometimes if necessary also with the support from Carabinieri.

The size of the Scut patrolling unit depends on the size of the demonstration, but some methodological guidance revealed during the discussion suggests a rate of 1 patrolling policemen to roughly 10 demonstrators, yet all this depends on the practical situation. The documentation group includes one or two experts that record the whole event: demonstrators and the police.

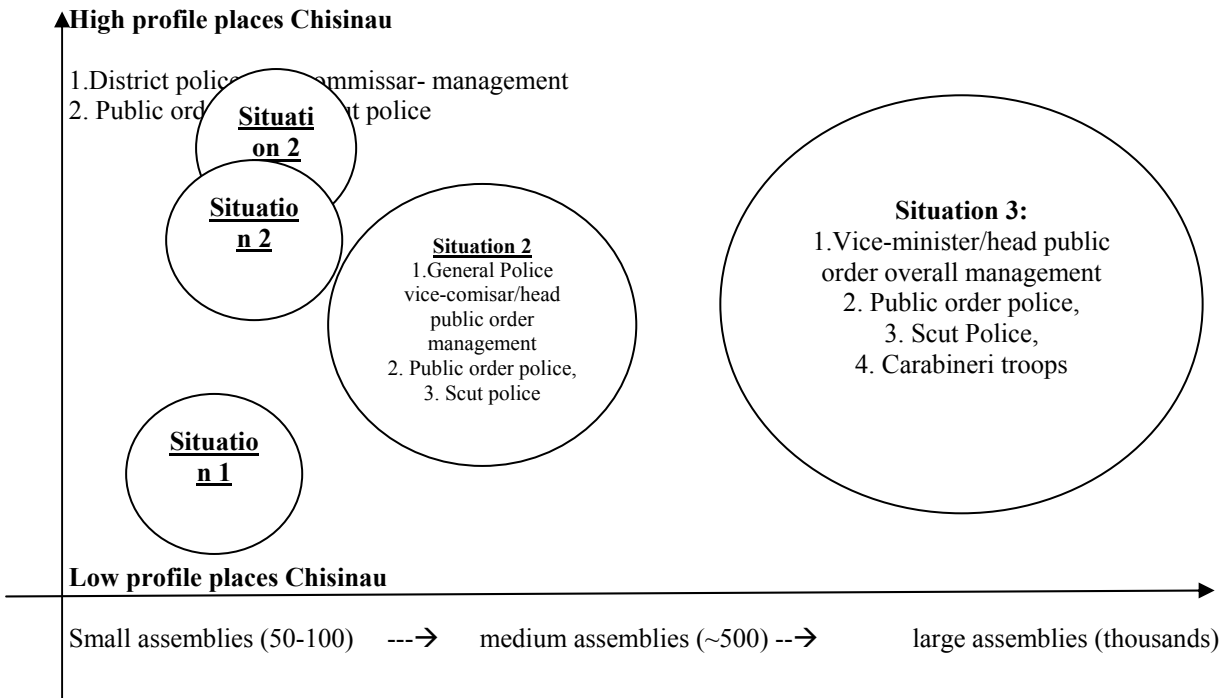
The scope of the documentation group and Scut police is the same as described in Situation 1. Vice-commissar of the General Police Commissariat usually is not present on the ground and in most cases acts from the General Police Commissariat headquarters, while a head of the public order Department from the General Police Commissariat is deployed on the ground.

Situation 3: Large scale demonstrations taking place in any part of Chisinau

This situation is under the overall management of the Ministry of Internal Affairs (either head/deputy of the public order direction or a vice-minister). Large scale events draw in: 1) public order policemen from General Police Commiserate as well as public order policemen from sector Police Commissariats, 2) Patrol and Sentinel Police Scut forces as necessary, 3) Carabinieri troops, sometimes supported by the Academy of Police students and finally, if necessary, 4) Special Brigade of Police "Fulger".

The division of labor of various police units is similar to that described above.

Graph: Size and place of assembly and police assembly management tactics



Legend:

- This is a three-dimensional graph that plots three variables: a) sensitivity of place in Chisinau, b) scale of assembly, c) frequency of assemblies,
- Size of circle stands for the scale of assembly (large circle – more participants),
- Vertical axes ranges from “low profile” cases to “high profile” places,
- Horizontal scale ranges from “small scale” assemblies to “large scale” assemblies.

District or general police vice-commissars along with the heads of district or General Police Commissariats are the core group responsible for the overall management of the assemblies. Scut police have the role of the on the ground force to maintain the public order, while Carabineri would have a supportive role for the existing police public order forces.

A more particular discussion of the tactics of management of the assemblies shows that apart from the mentioned police forces, other police forces are present on the scene. Other actors present on the scene of assembly event are: 1) additional public order police investigators (relevant district police commissariat), who document cases of criminal offences against public order and could wear plain clothes, 2) additional sector policemen (relevant district police commissariat), who document cases of administrative contraventions and could wear plain clothes, 3) specialist and experts (relevant district police commissariat), who record the situation on video and could wear plain clothes, 4) criminal police investigators (relevant district police commissariat), who document criminal cases and could wear plain clothes and finally, 5) field operatives of the Security and Intelligence Service (SIS), who wear plain clothes.

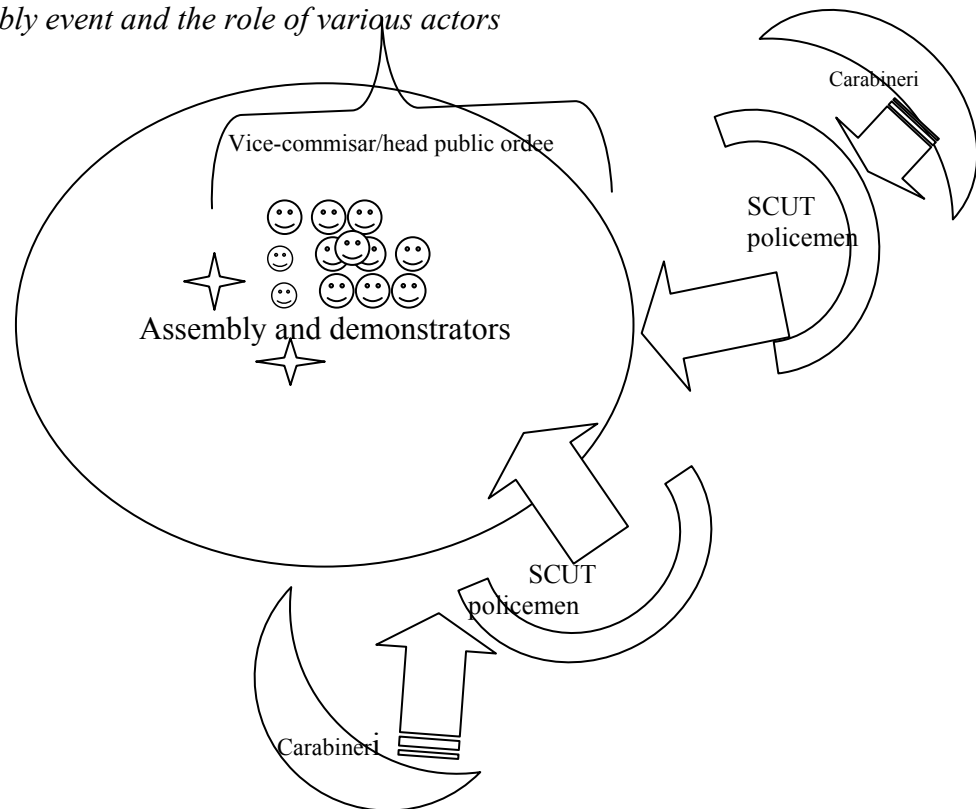
Overall, the deployment of police forces picture looks as the following:

- Vice-commissar/head public order (plain clothes in most cases) overall management of the assembly, with police headquarters support; involved in the dialogue with the leadership of the assembly²⁷;

²⁷ Representatives of the local public authorities (City Hall executive) is present in most cases, yet, their involvement, de facto, is quite limited and generally inadequate

- Documentation group composed of 5-7 police officers from relevant police commissariats to document public order violations (plain clothes), disperse among the organizers and identify the dynamics of the assembly;²⁸
- SCUT policemen (uniform) - maintain public order by being present at the scene and by guarding the place;
- Carabinieri troops (uniform) - support the role of the SCUT police;
- Experts, specialist (plain clothes in most cases) – provide video registration of assembly, support for documentation. ✧
- Intelligence officers (plain clothes) – document and identify the dynamics, other reasons. ✧

Scheme: Assembly event and the role of various actors



Analysis of the various cases-studies and responses from the police officers regarding the assembly tactics shows that the primary response tactic is to document public order respect. Indeed, during ²⁹ a series of trainings held with various levels of policemen, we could see that police response stands from the perspective of confronting the assembly taking place by documenting potential public order violations (role of public order policemen from Commissariats). Role of patrolling and Sentinel Scut police is generally to play supportive role to maintain public order, sizing the assembly organizers as the potential disturbances of the public order.

3.2 Training Practice for Policing of Assemblies

Training for policing of assemblies is carried out in three institutions: 1) Police Academy, 2) Institute for continuous professional education and finally, 3) within preparatory courses for Scut

²⁸ additional public order policemen and sector policemen (plain clothes in most cases) – document violations of administrative and criminal legislation could be deployed if the assembly is large scale event

²⁹ Trainings with policemen on assembly management carried out in November-December 2009 with the middle management police (vice-commissars and public order), front line policemen (Scut, Carabinieri), while discussing cases studies involving large/small scale events, notified, un-notified and other types of assemblies.

police. In this section we discuss the example of the Police Academy and Institute for continuous professional education.

- *Police Academy Curricular*³⁰

Police Academy has a particular specialization within their legal degree program to prepare policemen - public order - that prepares officers during 4 years of studies. Also, Police Academy provides for 3 months a professional program for particularly Scut policemen.

- 3 months professional course provide theoretical knowledge on³¹:
- special tactics,
 - legal protection of human rights,
 - policing law (public order, use of arms, etc),
 - contravention law,
 - police ethics,
 - shootings,
 - physical preparation,
 - basis of the constitutional law.

The follows of the program also undergo theoretical knowledge on: juridical psychology, special tactics, and law on assembly.

From the discussions with the Police Academy representatives the law on assembly and police tactics is discussed theoretically during 2-4 academic hours. During the interview we have been said that there are plans to extent the number of hours and an intention to make it more practical in the future. The interviewees, professors of public and administrative law, have said that the educational program provides the basics of the behavior of the policemen during the assemblies.

- *Institute for continuous professional education*³²

Institute for the continuous police education is a part of the Police Academy. Decision of the Government has created³³ the Academy and mandated it research and professional development. The institute provides three types of professional education: a) professional specialization course for 72 hours, b) short-term professional specialization course for up to 100 hours and c) multidisciplinary professional specialization course from 100 to 500 hours. According to the Ministerial Order, each policeman has to undergone a professional requalification for at least once in three years.

The subjects for the trainings are tailored upon the need to various groups and police units. The lecturers are drawn from the pool of the professors from the Academy of Police or elsewhere.

3.3 Policy on Use of Special Means

There are several provisions in Moldovan law on the use of the special means while policing certain type of manifestations. The Law on Police³⁴ provides for the use of the following special

³⁰ <http://www.academy.police.md/main/>

³¹ See section on Scut

³² <http://www.academy.police.md/institutul/>

³³ Governmental Decision nr. 1391, 27.12.2005

³⁴ Law on Police, 31.01.2002 în Monitorul Oficial Nr. 17-19 art Nr : 56

means while: a) circumventing mass disorders and violations of public order in group, b) defending state buildings from the attacks, c) during forced detention of persons who are responsible for the offences:

- Handcuffs,
- Truncheon,
- Immobilization means,
- Tear gas and colored substances,
- Audiovisual means to influence psychology of people,
- Means of destruction of obstacles and of forcible stop of transportation,
- Water cannon,
- Armored vehicles,
- Other means as dogs, etc.

The type of the special means is established by the policemen based on the specific situation and the character of the crime as well as the identity of the offender. The complete description of the special means and the rules of their application is approved by the Government. For the insurance of the security of the policemen they could wear and use shields, helmet, bullet proof jacket and other means of self-protection.

Furthermore, the use of the special means are regulated by the Decision of the Parliament³⁵, that divide special means into active, passive as well as auxiliary insurance means:

	1. Pasive defence means - Mijloacele de apărare pasivă:	2. Active defence means - Mijloacele de apărare activă;	3. Auxiliary and special operations means – Mijloacele auxiliare de asigurare a operațiilor special
M E A N S	1) helmets - Căști 2) bullet proof jackets - Jilete și scurte paraglonte 3) shields and antisick shields - Scuturi blendate și scuturi antișoc 4) Other means to protection - Alte mijloace de protecție, care nu sînt folosite pentru apărare activă, inclusiv îmbrăcăminte specială refractară	1) Special ribbon and plastic trounchen - Bastoane speciale de cauciuc și plastic 2) handcuffs - Cătușe 3) gas explosives - Grenade de mîină cu gaze 4) tear gas- Cartușe și grenade de gaze 5) tear gas gun - Pistol cu gaze 6) aerosol packages - Ambalaje cu aerrozol 7) blind bullet gun - Cartușe cu glonți de cauciuc sau plastic 8) Cămașe de forță 9) special nets - Plase speciale 10) electrick sock gun - Armă electroșoc 11) dogs - Cîini de serviciu 12) Aplicarea forței fizice	1) Aparate cu raniță 2) explosives with audiovisual devices - Grenade și dispozitive audio-vizuale 3) explosives for special destinations - Dispozitive de explodare cu destinație specială 4) means to forcibly stop auto transport - Dispozitiv pentru stoparea forțată a transportului auto 5) special colored substances - Coloranți speciali 6) fire-brigade cars - Cisterne auto de pompieri cu afect cu țevi 7) armored vechicles - Tehnică blindată 8) helicopters – Helicoptere

Rules for the application of special means provide for several safeguards. The application of the special means should be preceded by warning on their use allowing enough time for a reaction with exceptional situations. In all cases when the use of force cannot be avoided, policemen are

³⁵ Parliamentary Decision nr 1275, 15.02.1993, Parlamentul Republicii Moldova, cu privire la aprobarea mijloacelor speciale și a regulilor de aplicare a acestora de către colaboratorii organelor de interne și militarii trupelor de carabinieri ale Ministerului Afacerilor Interne

under the obligation to minimize the possible effects on the health, morals, dignity and finally provide medical assistance to the victims.

In any case of injury or casualty as a result of the application of any special means, the policemen are obliged to communicate directly to the superior and subsequently to the prosecutor. Excess in use of the special means carries responsibility under the law. The policemen could apply physical force in order to curtail the offences, to put off resistance and carry out obligations.

Particularities of the application of the special means:

Special means	Constraints in the use of special means
1) ribbon and plastic - trounchon Bastoane speciale de cauciuc și plastic	Forbidden to apply on head, neck, balley and genital organs. Se interzice aplicarea loviturilor pe cap, gît și clavicule, abdomen și organelor genitale.
2) handcuffs - Cătușe	Subject to permanent control Se controlează periodic dispozitivul de închidere.
3) tear gas - Gaze lacrimogene	It is forbidden to target directlto target directl at the offenders and throwing the explosives in the crowds and repeated use of explosives within the limits of the areas affected during the gased area. <i>Se interzice tragerea directă asupra infractorilor și aruncarea grenadelor în mulțime, precum și folosirea repetată a grenadelor în limitele zonei afectate în timpul acțiunii nemijlocite a gazelor.</i> Tear gas and explosives use should be reported to the superiors and the prosecutor. <i>Despre aplicarea gazelor lacrimogene împotriva delicventului în încăpere închisă în care se afla și persoane străine, a căror prezență era necunoscută sau care nu au putut fi evacuate în prealabil, colaboratorii organelor de interne, militarii trupelor de carabinieri sînt obligați să comunice imediat șefilor.</i>
4) handcuffs and ribbon and platic trounchen - Cartușe cu glonț de cauciuc și plastic	It is forbidden to apply on the head. Se interzice aplicarea lor asupra capului.
5) grenades and audiovisual devices - Grenade și dispozitive audio-vizuale	It is used to influence persons that violate the law by strong luminicences and sound explosives (at the distance of 2 meters). Se foliesc pentru a influența asupra persoanelor care încalcă legea, prin puternice impulsuri luminiscente și sonore (la o distanță de cel puțin 2 metri).
6) Explosive devices - Dispozitivele explozive	Special means used to open closed buildings, not against the people. <i>speciale pentru deschiderea încăperilor neaplicabile împotriva oamenilor.</i> Used to breakthrough the doors and buildings, to open armoured vehiclles of small scale. <i>pentru spargerea ușilor și a pereților, învingerea altor obstacole, deschiderea vehiculelor se folosesc dispozitive de explodare de demensiuni mici.</i>
8) Fire brigades Cisterne auto de pompieri cu afet cu țevi	Used to disperse the participants for the violations in large scale manifestatons to protect public order. <i>Se folosesc pentru împrăștierea participanților la încălcarea în masă și în grup a ordinii publice.</i> It is forbidden to use water jets when the temperature is below zero centigrade. <i>se interzice folosirea jeturilor de apă la o temperatură a aerului mai joasă de 0 grade C.</i>

The permission to use all special means with the exception of the fire brigades, armored vehicles and helicopters is allowed by the police commissar (his deputy), the head of Carabinieri and the chief person on behalf of the Ministry of Internal Affairs. Minister and vice-minister allow the equipment, distribution and application of:

- fire-brigades,
- armored vehicles and helicopters;
- other forms of special means to curtail the groups that violate public order.

The ban to use special auxiliary means and active defense means is not allowed in case of children, elderly persons, with the exception of cases of curtailing of an armed attack of an armed group of people.

3.4 Chapter Discussions and Conclusions

This section discusses the assembly management tactics, policy on the use of special means and approaches in the development of the relevant professional skills for public assembly management.

The key aspects referred to:

- absence of practical and hand-on skills in crowd and assembly management for various levels of policemen: middle management and front-line management,
- assembly management tactics views assemblies as potential disturbances of public order,
- dominated approach on use of equipment and aggressive confrontational dispersal mode when managing crowds,
- theoretical methods of teaching of assembly management in contrast to practical or balanced with practical methods.

The management of the assembly is performed by the vice-commissars or public order chiefs of police commissariats. The management of public assembly is never delegated, even in the case of smaller assemblies to the lower level of officers from Scut police or else present on the ground. The number of small scale or short-term assemblies is around 85% of all assemblies and their management could be delegated to the lower level of management on behalf of police. In practice small scale assemblies often receive small or any attention from the police. These are mostly assemblies where that present no problems, yet from the point of view of the development of communication skills and reciprocal knowledge among the organisers and the police could be beneficial.

Absolute majority of assemblies in Chisinau (around 85%) take place in central places, this, according to the existing practice require vice-commissar or head public order attention. With the further delegation of the responsibilities to manage public assemblies to the police officers the pressure on the leadership of police commissariats would be eased up. At the same time the development of the relevant skills for assembly management would step in as important prerequisite for success of police performance.

Reading of the relevant legislation on the use of the special means and debriefing with the police commissariat leadership shows that the role of the special means should be integrated into the law on assembly mandate of police:

- 1) facilitation of assemblies,
- 2) protection of assemblies, and
- 3) maintaining of public order.

The use of the special means should be reviewed, so that special means use should be part of the assembly facilitation and protection as well. One could not find in the professional curricular teaching and skills in development of the use of the special means for this scope.

Changing of the focus from the confrontation approach to cooperation and facilitation approach in policing of assemblies is a matter of shifting in mentality of the leadership in the police and also developing of the right skills. Development of the right skills requires thinking of the various situations that could take place and modeling the behavior of the police and of the organizers, alternative developments are also relevant in this sense.

The current practice of the presence of the unidentified police at the assembly place often creates the feeling that the law on assembly objective (facilitate and protect) are jeopardized to the expense of the public order maintenance in the sense of the documenting of the violations only. Plain cloth policemen from public order police, sector police and others should be contributing to the creation of the sense of assembly facilitation and impartial assembly management.

The development of the practical skills of assembly management in Scut police officers who deal with patrolling public order should be essential. Scut police officers are challenged to have more roles in assembly management and perhaps the current institutional set up of police pushes Scut police to be at the core of assembly management. Carabinieri troops could play a support role and only during the medium-to-large scale demonstrations, keeping their role to the maintenance of public order. In order to consolidate the development of skills in assembly management, one could think of the special unit in Scut police that will be focusing their skills in this area and they could still be involved in the patrol of public order outside its prime role.

The selection of the people in this unit should be subordinated to the idea of the high stake that the police has when communicating with the assembly participants and the image damage on the authorities in the case of failure.

4. Approaches in Policing of Assemblies: Experience from Various Jurisdictions³⁶

This chapter outlines main models that have been adopted in relation to policing of public assemblies and discusses some of the factors influencing the shifts from one approach to another. It continues with a brief review of a number of recent reports of problems associated with the policing public of assemblies in a range of countries and concludes with an outline of some of the main principles underpinning effective policing of assemblies.

4.1 Models of Public Order Policing

Policing styles have changed over the years and there have been a number of different approaches to the policing of assemblies and protests, these have tended to be based either on an authoritarian approach or on a more collaborative model. There are five main broad models or frameworks that have been identified in relation to the policing of crowds and public events, which have been named as: escalating force; negotiated management; command and control; community policing; and a human rights approach. This section and the following outline some of the key features of each of these five frameworks.

However, as a caveat one should note that these different approaches have been outlined in relation to the policing of crowds and assemblies in Western Europe and the USA. In contrast there has been relatively little research or analysis published (at least in English) in relation to the policing of public assemblies in Eastern Europe or the countries of the former Soviet Union. Therefore it is not entirely clear how far such models are applicable in such countries or whether they have adopted distinct or different models of policing public assemblies. However, a number of recent reports critically reviewing the policing of assemblies in former communist countries, which are discussed below, suggest that public order policing remains dominated by authoritarian approaches to crowd management.

Escalating Force Model: This was main approach adopted in the 1960s and 1970s in Western Europe and the USA and was based on a relatively assertive and controlling approach from the police towards public assemblies, demonstrations and protests³⁷. There was limited acknowledgement of the right to assemble or engage in public protest and in general demonstrators were viewed with suspicion by the police. There was minimal communication between police and participants in assemblies, limited tolerance of forms of disruption and a ready use of arrests and the enforced dispersal of assemblies. Finally, as the name suggests, the police were ready and willing to use force as a means of controlling crowds and imposing their sense of order on the streets. Any resistance by protesters was met by an increase or escalation in police use of force. This model of policing is associated with increasingly frequent and often violent confrontations between police officers and demonstrators which resulted in several serious outbreaks of rioting and disorder across Western Europe and the USA in the late 1960s, 1970s and early 1980s.

³⁶ These chapter is a summary of the research paper: "International Approaches to the Policing of Public Assemblies", Neil Jarman, Institute for Conflict Research, Belfast, Northern Ireland.

³⁷ See Donatella Della Porta and Herbert Reiter (eds) (1998) *Policing Protest: The Control of Mass Demonstrations in Western Democracies*. Minneapolis, University of Minnesota Press.

Negotiated Management Model: This model was developed in response to the perceived limitations of the escalating force approach and advocated greater co-operation between police and demonstrators in an attempt to enable assemblies to take place while reducing tensions between police and protesters and thus reducing the likelihood of violence. Under this approach the police gave more recognition of to right to assemble and to protest, were more tolerant of disruption to traffic and other routine activities that might be caused by a public assembly. The police also attempted to establish and maintain lines of communication with the event organisers and participants and they tended to use arrests and dispersal as a last resort, while use of force was kept to a minimum. The negotiated management approach became the dominant framework for policing assemblies in the USA and Western Europe through the 1980s and 1990s.

Principles of Policing Assemblies. A review of all aspects of the regulation and management of public assemblies carried out in nine countries in 1997 and 1998³⁸ highlighted a number of assumptions and approaches to policing of such events that could be considered as the basis of best practice at that time when crowd management was dominated by the negotiated management model.

The list of principles drew on interviews with serving police officers, public officials and event organisers as well as observation at assemblies identified the following as key principles for effective policing of public assemblies:

1. The management of public assemblies is largely the responsibility of the police and a successful peaceful assembly will in large part be due to the quality of the policing. Poor policing all too readily leads to disorder, disruption and violence.
2. Too often the police work to the interests of the state, or prominent political actors, rather than to uphold the rule of law and the protect human rights. This means that the orientation of policing is towards suppressing or constraining freedom of speech, expression and protest, rather than ensuring that people have the opportunity to exercise their rights and freedoms in a safe environment.
3. The successful management of public events requires a clear understanding of human rights, crowd dynamics and how conflicts unfold, especially by senior officers.
4. There is always a need for good planning, a clear command structure and good communication.
5. All police officers should have a good understanding of the basic principles of human rights.
6. All police officers should have public order training, and should be trained in the use of weapons and the use of force³⁹.
7. It is equally important that the human rights of police officers are respected and that they are provided with appropriate safety equipment to enable them to work in potentially dangerous situations.
8. The police should work closely with the event organisers where possible.
9. The police should focus on maintaining public order rather than simply working to the letter of the law.
10. A low key approach to the presence and visibility of police officers is important. Riot gear and weaponry should not be deployed until necessary, rather than as part of a preventative approach.
11. Force should only be used when absolutely necessary. Patience, tact and diplomacy are more effective means of ensuring that events pass off peacefully and without disorder.

³⁸ Neil Jarman, Dominic Bryan, Nathalie Caleyron and Ciro de Rosa (1998) *Politics in Public: Freedom of Assembly and the Right to Protest, A Comparative Analysis*. Belfast, Democratic Dialogue. The research looked at policing in Canada, England, France, Ireland, Israel, Italy, Scotland, South Africa and the USA.

³⁹ The two key documents setting out standards for police officers are the Code of Conduct for Law Enforcement Officials: http://www.unhchr.ch/html/menu3/b/h_comp42.htm and the Basic Principles on the Use of Force and Firearms: http://www.unhchr.ch/html/menu3/b/h_comp43.htm

12. The military should not be used in policing assemblies as they rarely have the appropriate skills or training to manage such public events effectively.

It should be noted however, that even under the negotiated management model the police sought to remain in control of the situation, they acknowledged their ultimate responsibility to maintain public order and thus the approach has been can be viewed as an attempt to maintain a delicate balance between the use of a ‘velvet glove and an iron fist’⁴⁰.

4.2 Identifying Best Practice

We have argued that models of policing tend to move in cycles between those that favour a more authoritarian approach by police organisations and ones that are more orientated towards more collaborative approaches based on dialogue and negotiation. The first approach involves police organisations reacting and responding to developing situations and perceived threats, while the second involves a more problem solving approach that aims to identify and neutralise risks at an early stage. Over the past decade police organisations in many countries have been adopting a more authoritarian and assertive approach in the policing of public assemblies, but a number of reports have highlighted that such an approach often leads to more confrontation with protesters, more violence and even fatalities and have recommended a move to models based respect for human rights and improved modes of communication between police and participants in public assemblies. The following highlights a number of key issues that have been identified as areas in which many police organisation need to develop their learning and practice in relation to policing public assemblies.

Planning: Ensuring an effective policing operation requires the development of a clear operational plan and command structure. The planning should be done well in advance of the event and should set out key strategic and operational objectives and identify the ways and means that these will be achieved and the specific responsibilities of particular officers. The Association of Chief Police Officers (ACPO) in the UK have produced a ‘manual of guidance’ entitled *Keeping the Peace*⁴¹ which covers all aspects of the policing of public order and can serve as a useful guide to current practice in policing public assemblies. It is notable that the first section of the document entitled ‘General Principles’ focuses on human rights.

Understanding Crowd Dynamics: There has been extensive work developed over recent years to refine the understanding of the behaviour of crowds and particularly the interaction of police officers and crowds. The more sophisticated approaches, developed by police officers in Belgium and Holland and academics in England, have highlighted the need to view crowds as complex groups of individuals whose behaviour often develops in response to the actions and attitudes of others. These approaches have also acknowledged that police officers often behave as another crowd, which at times may provoke a hostile response from an opposing crowd of demonstrators. The new approaches to crowd dynamics have been successfully applied to reduce tension and violence in the policing of football crowds during both Euro 2000 in Holland and Belgium⁴² and Euro 2004 in Portugal⁴³.

Presentation: It has been acknowledged that the appearance and manner of deployment of police officers can be a factor in raising or decreasing tensions at public events. Deploying large

⁴⁰ PAJ Waddington (1994) *Liberty and Order: Public Order Policing in a Capital City*. London, UCL Press.

⁴¹ ACPO (2007) *ACPO Manual of Guidance on Keeping the Peace*. <http://www.acpo.police.uk/> This document is currently being revised and updated and is not available online.

⁴² Otto Adang and Christine Cuvelier (2001) *Policing Euro 2000: International Police Co-operation, Information Management and Police Deployment*. Beek-Ubbergen, Tandem Felix.

⁴³ <http://www.data-archive.ac.uk/doc/5300/mrdoc/pdf/5300userguide.pdf>

numbers of police officers, or deploying police officers in full riot gear may send a message that the police are expecting, and ready for, a confrontation. In contrast deploying officers, or key officers, in ‘soft’ uniforms or shirt sleeves and keeping officers in riot gear out of sight may help to reduce tensions and convey a message that the police are not expecting any trouble.

Communication: Poor communication skills by police officers or a lack of willingness to communicate openly with event organisers or participants in crowds has been highlighted as a factor in a number of recent protests that have developed into violent confrontations. It can be important to try to engage in communication with event organisers as a means both of informing them of police intentions and also in gathering information on their plans and intentions. Mobile phones can be used to maintain contact through the duration of a large assembly.

Line Management: Effective policing often involves a balance between following orders and using one’s own initiative. In public order situations police officers need to be able to work as a team, but should also be subject to suitable levels of supervision in order that the behaviour of individual officers can be appropriately monitored.

Responding to Disruption: All public assemblies cause some level of disruption to other people’s routines and it is the responsibility of the police to be able to balance the competing needs of public assemblies, pedestrian and vehicle traffic and business. The European Court of Human Rights has highlighted the need to acknowledge the right to protest is at least as important as other rights.

Dispersing Assemblies: The right to assemble is the right to assemble peacefully and as long as an assembly remains peaceful it should be allowed to continue. This applies to peaceful assemblies that have not fulfilled all the requirements of the law as those that have. Often an attempt by the police to disperse an assembly will result in an outbreak of violence and the creation of disorder which it is claimed the dispersal is designed to avoid.

Use of Force: It is important to instill in police officers that the use of force in crowd situations should always be kept to the minimum necessary, and should always be a last option rather than a regular aspect of policing in difficult situations. The UN *Code of Conduct for Law Enforcement Officials*⁴⁴ and the *Basic Principles on the Use of Force and Firearms by Law Enforcement Officials*⁴⁵ remain key sources of guidance in this regard.

Appropriate Weapons: Police officers involved in policing public assemblies need to have access to a variety of weapons to ensure that any use of force is kept to the minimal necessary and proportionate to the situation, too often they have limited choice between a baton and a firearm. The Northern Ireland police reform programme involved a substantial review of options for new weapons in trying to identify weapons that involved less lethal force⁴⁶. The programme resulted in police in Northern Ireland having access to personal batons, attenuated energy projectiles (a form of plastic bullet) and water cannon as the main weapons for public order use. Other police forces also use tear gas, sonic devices, horses and dogs. It is generally recognised that some newer forms of weapons are not suitable for use in crowd events, in particular personal pepper sprays and Taser electric shock weapons are not considered appropriate for use at public assemblies.

⁴⁴http://www.unhcr.ch/html/menu3/b/h_comp42.htm

⁴⁵http://www.unhcr.ch/html/menu3/b/h_comp43.htm

⁴⁶ See for example http://www.nio.gov.uk/less_lethal_weaponry_steering_group_-_phase_2_report.pdf
http://www.nio.gov.uk/less_lethal_weaponry_steering_group_phase_5_report.pdf

Health and Safety: Policing large crowds can be dangerous and therefore it is important to acknowledge the human rights of police officers and ensure that all police officers have appropriate protective equipment. The better protected officers are the more confident they will be in managing disorderly crowds without recourse to use of force. As a minimum police officers should have access to protective helmets with visors and shields; other protective equipment may include fire retardant overalls, shin and elbow pads. Protective equipment should also be well maintained and defective or damaged equipment should not be used.

Use of Arrests: In many recent assemblies it has been claimed that arresting or detaining participants has been used as a means of harassing people or of dispersing the gathering. As noted with attempts to disperse an assembly, police action to arrest people may provoke a hostile response and it may well prove more effective to use surveillance technology to identify people and to arrest them as the event breaks up, rather than try to intervene during the event.

Debriefing: It is important that the police analyse and review how they police assemblies through debriefing after the event. This is equally important for assemblies that passed peacefully as for those that caused problems for the police. It is important for police organisations to learn from their success as much as from their mistakes. It may also be useful for senior officers to debrief with event organisers as part of the process of building trust.

Training: It is important that all police officers deployed in the policing of assemblies have received appropriate levels of training. There have been a number of examples in recent years where untrained or poorly trained police have been used at potentially contentious assemblies. Poor training can too readily lead to inappropriate actions, including aggression and use of force. Among the issues that need to be included in public order training are human rights principles, communication skills, and mediation and negotiation skills. Training should also include teamwork and teambuilding skills, training in weapons and use of force, and health and safety issues. Appropriate levels of training should be provided for strategic command, operational command, line management and front line officers. Revision and update training needs to take place on a regular/annual basis.

Accountability: Police officers need to be able to be held accountable for their behaviour and actions if a sense of impunity is to be avoided. At a minimum all police officers should be required to display a form of personal identification, such as a personal number, that is visible at all times, regardless of any protective equipment they are wearing. Accountability should extend to having an independent process of dealing with complaints against police officers and a willingness to discipline or prosecute police officers who commit a criminal offence in the execution of their duties.

Transparency: Increasing levels of transparency can be an important factor in building levels of trust and confidence in the police among civil society groups and organisations. In Northern Ireland civil society groups help deliver aspects of police training, human rights lawyers have monitored training and have observed all elements of public order policing operations. Such activities can help develop effective relationships between police and non-police groups and can provide an insight into the problems and difficulties that police officers may experience.

4.3 Conclusion

Collectively these issues encompass many of the major elements of tension and contention between police organisations and human rights groups and civil society activists. The experiences in such places as South Africa and Northern Ireland have illustrated that police

organisations can become more sensitive to and respectful of human rights and more open and accountable to the wider society without losing their capacity to police effectively and professionally. In fact the opposite is the case. By being seen to be working with civil society and by developing and sustaining working relationships with key civil society organisations it is possible to build trust and mutual respect, and through this to begin to develop a culture and practice of respect and understanding for human rights and thus reduce the potential for violence and disorder and therefore to improve the sense of safety and security for civilians and for police officers.

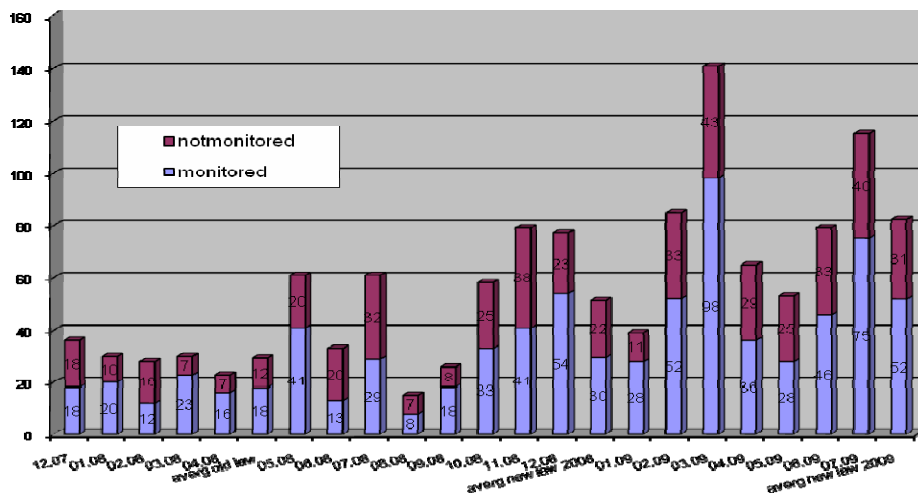
5. Outputs of Policing of Assemblies in Moldova

This section deals with the policing of assemblies. It provides the information on the assembly dynamics and interrelation between the organizers and the police.⁴⁷

5.1 Assembly Dynamics

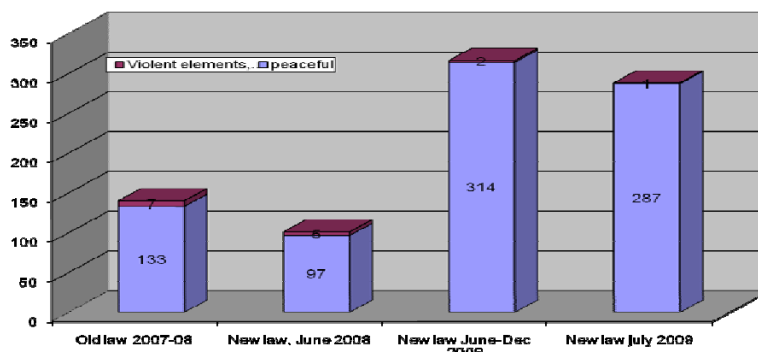
As graph 5.1 shows, the number of assemblies reached 80-90 per month. There is a constant growth of assemblies from 35 assemblies per month in December 2007, to - 70 assemblies in December 2008 and 80 assemblies in June 2009.

Graph 5.1 Monthly evolutions of assemblies



The number of non-peaceful assemblies remains small.

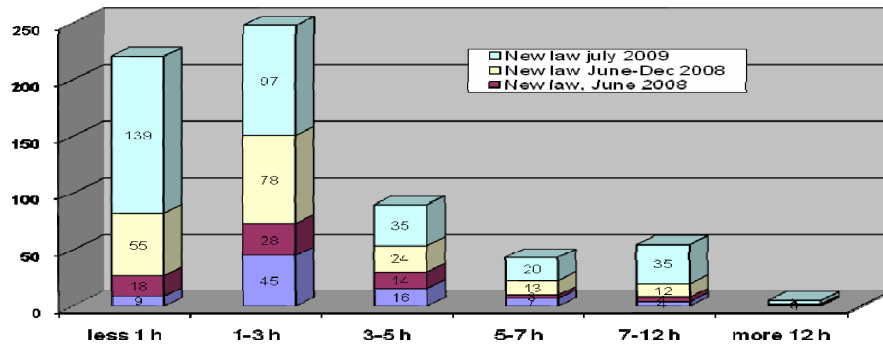
Graph 5.2 Peaceful and non-peaceful assemblies



The number of longer assemblies of more than half day-to-whole day remains small. Short-time events of less than 1 hour and up to 3 hours dominate. Flash-mob assemblies of even smaller duration are also present in Moldova.

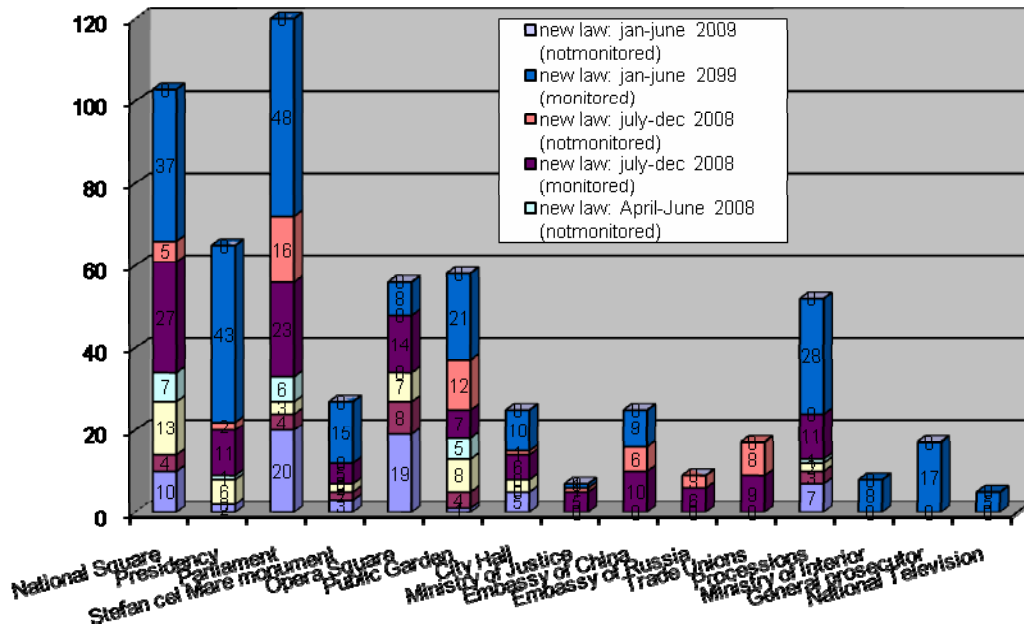
Graph 5.3 Duration of assemblies

⁴⁷ This chapter is based on the Comprehensive monitoring program of public assemblies in Moldova carried out by Resource Center for Human Rights (CReDO), more details: www.CReDO.md/assembly



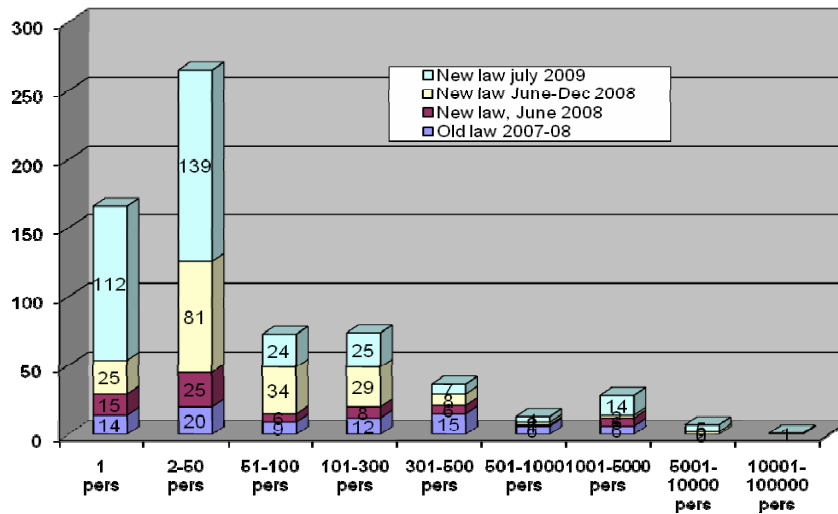
Most of assemblies take place in central parts of Chisinau: National Square, President, Parliament, Public Garden spaces. Police keep assemblies targeting Parliamentary building at a distance of at least 200 meters, at the staircases near the road, assemblies targeting Presidency are kept at the pedestrian pathway at lower staircases, assemblies targeting Government building are kept at a distance of at least 200 meters, actually in the National Square.

Graph 5.4 Places for holding assemblies in Chisinau



The number of participants at the assemblies has had some changes. Most notably there has been a greater number of assemblies with participation of up to 50 persons. The number of assemblies with fewer than 50 persons increased considerably in relative terms: under the old law there were about 5 such assemblies per month, now there are around 10 per month. There has also been a slight increase in the number of the assemblies from 51-100 and 101-300 persons under the new law.

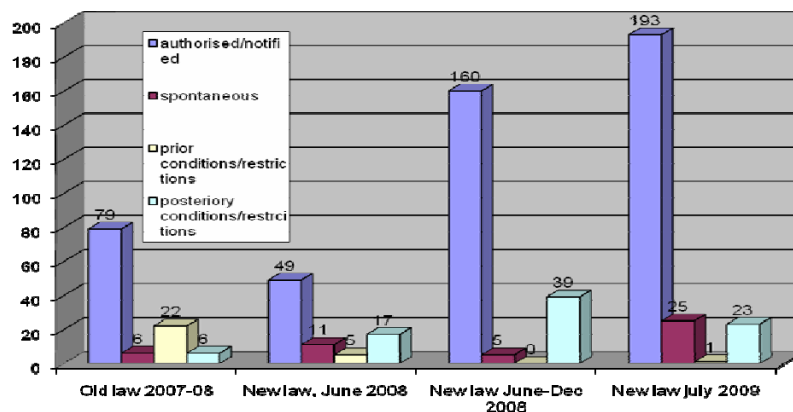
Graph 5.5 Number of participants at assemblies



5.2 Police Management of Assemblies

Number of spontaneous assemblies remains small. Practice dated up to autumn 2009 shows difficulties as: assembly organizers and particularly political parties do not communicate with the police, local public authorities do not inform properly the police on the timing and organizers, difficult communication between local authorities and the police.

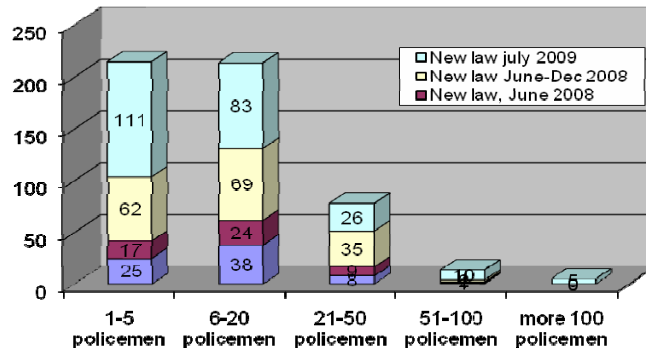
Graph 5.6 Conditions and restrictions on assemblies



Under the old law, most restrictions or conditions were imposed prior to the event, with only 7% of the conditions being imposed during the assembly. Most conditions had thus been imposed under the authorization procedure. Under the new law, the proportion has been reversed. Initially, in the first 2 months, there were only 77% of restrictions imposed and later 100% while the assemblies were underway.

Almost 30% of events have been attended by between 20 and 100 police officers. The number of the police officers at the assemblies has initially slightly increased since the change in the legislation, yet later stabilized at the level prior to the introduction of the new law. Most events are attended by 5 to 20 police officers. There is a notable increase in the number of events attended by police officers between 20 and 100. Overall, as the number of assemblies has increased, therefore the police presence has increased correspondingly.

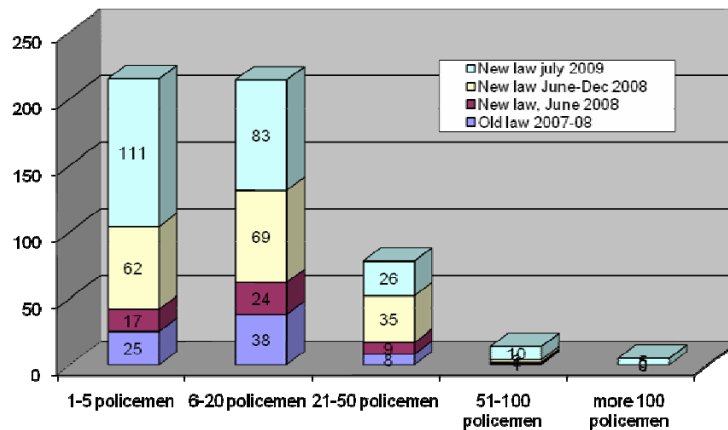
Graph 5.7 Police presence



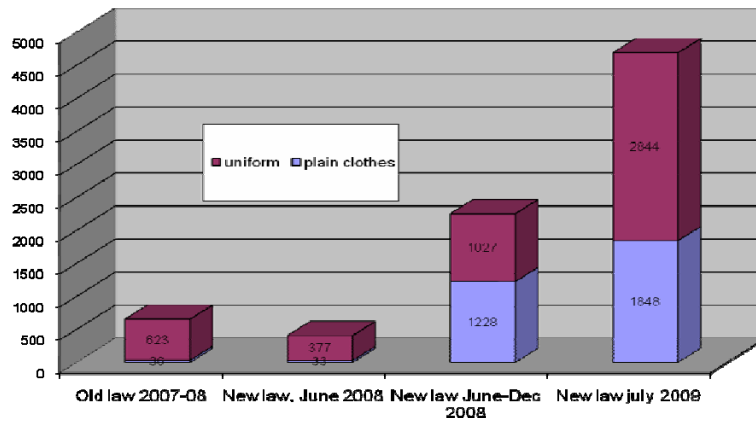
A closer analysis of the police presence at the assemblies shows that the number of police present at each assembly substantially decreases. Under the old law, Police presence, during the time of the old law has been on average at least 7-8 policemen. After the adoption of the new law, on average, the number of police decreases to 6-7 policemen. During the summer and autumn of 2008, the presence of police decreased even more, on average to 1 policeman per assembly. The overall police force involved in policing of assemblies increased.

Police started to adopt the tactic of the hand-off approach in the facilitation of the assemblies. This situation might create the situation when police refrain from the legal positive obligation, including under the new law, to facilitate the carrying out of the assemblies, when the police presence and involvement is needed. Further analysis of the police absence from the assemblies' scene, show that police increased practice of not wearing uniform during the assemblies. The graph that follows show that police starts to be present at the assemblies in plain clothes much more rather than in the uniform.

Graph 5.8 Police presence at the monitored assemblies

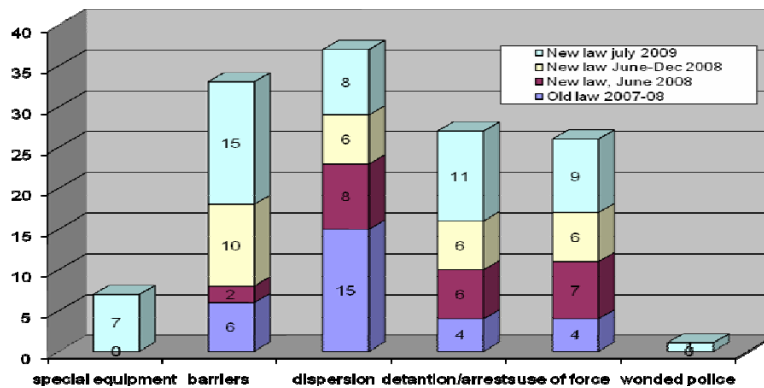


Graph 5.9 Police presence in uniform and plain clothes



Detention or arrests have been used in 6 cases and dispersal has been used in 8 cases.

Graph 5.10 Police actions



Police practice to bring charges against assembly organizers could be grouped into 3 types of charges:

- 1) unlawfulness of assembly,
- 2) actions against police by organizers and participants, and
- 3) other (residence permit, material damage, etc).

One can see that there are two types of charges that predominate: actions of the organizers or of the participants against the police. After the introduction of the new law - the number reached 24. Here the primary issue is whether the police itself act in a manner not to provoke the organizers and the participants. The second group of the charges relate to the alleged unlawfulness of the assemblies. The number of charges brought is 21. These charges are the most relevant to the alleged violation of the assembly conditions. The organizers have been detained and charged under the following provisions of the administrative offences:

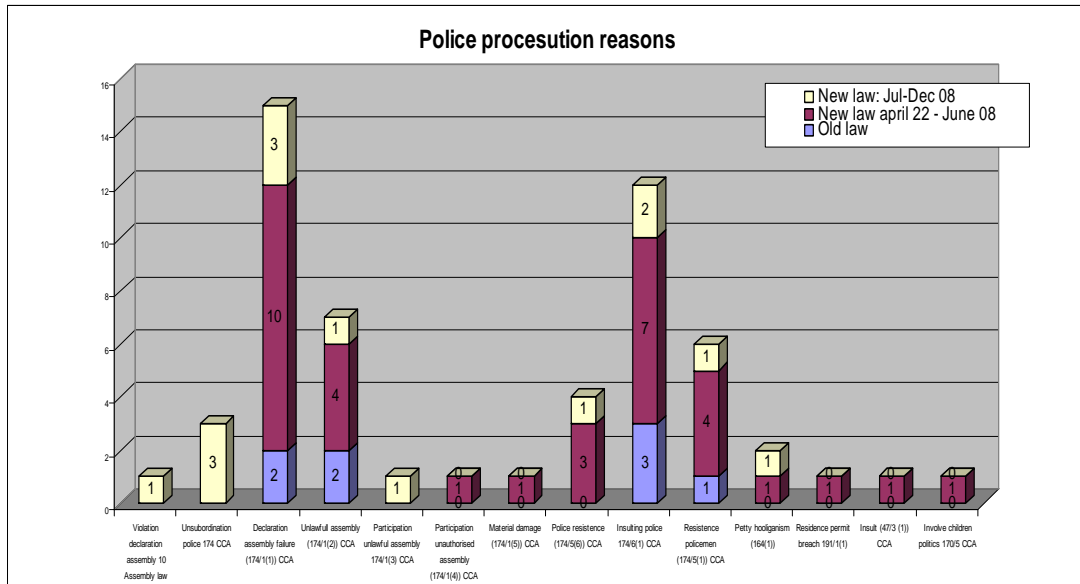
- 1) breach of legislation regarding assembliesⁱ,
- 2) insulting policeⁱⁱ,
- 3) resistance to policeⁱⁱⁱ,
- 4) involvement of children in public actions^{iv},
- 5) breach of residency rules by a foreign citizen^v,
- 6) insult^{vi}, and
- 7) petty hooliganism^{vii}.

Accusations brought by the police are:

- 1) causing material damage,
- 2) organization or participation in an illegal assembly,
- 3) petty hooliganism,

- 4) involvement of children in political activities,
- 5) insubordination to police,
- 6) violation of declaration of assembly provisions, and
- 7) causing insult to others.

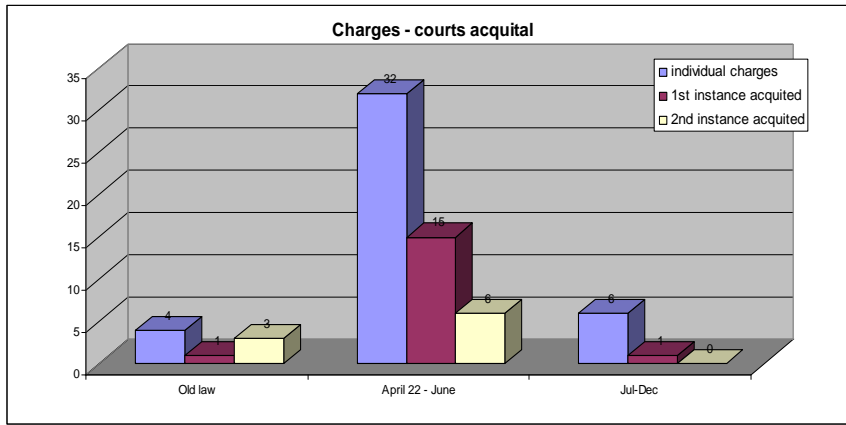
Graph 5.11 Prosecuting reasons



Failure to properly notify an assembly has been the most frequent accusation of the breach of the law by the police. With 2 charges, under the old law, after the adoption of the new law, 10 cases of charges have been brought, while later it decreased to 3 cases; thus, overall 13 cases of charges under the new law. The tendency shows the decrease of the use of this charge against the organizers which is a positive sign. Insult of police, in the course of the assemblies, has been used by police in 12 cases, 3 under the old law and 9 under the new law. There is a decrease tendency in the use of this charge under the new law which represents a good sign. Resistance posed to police has been used frequently – 5 times – to suspend de facto the assembly.

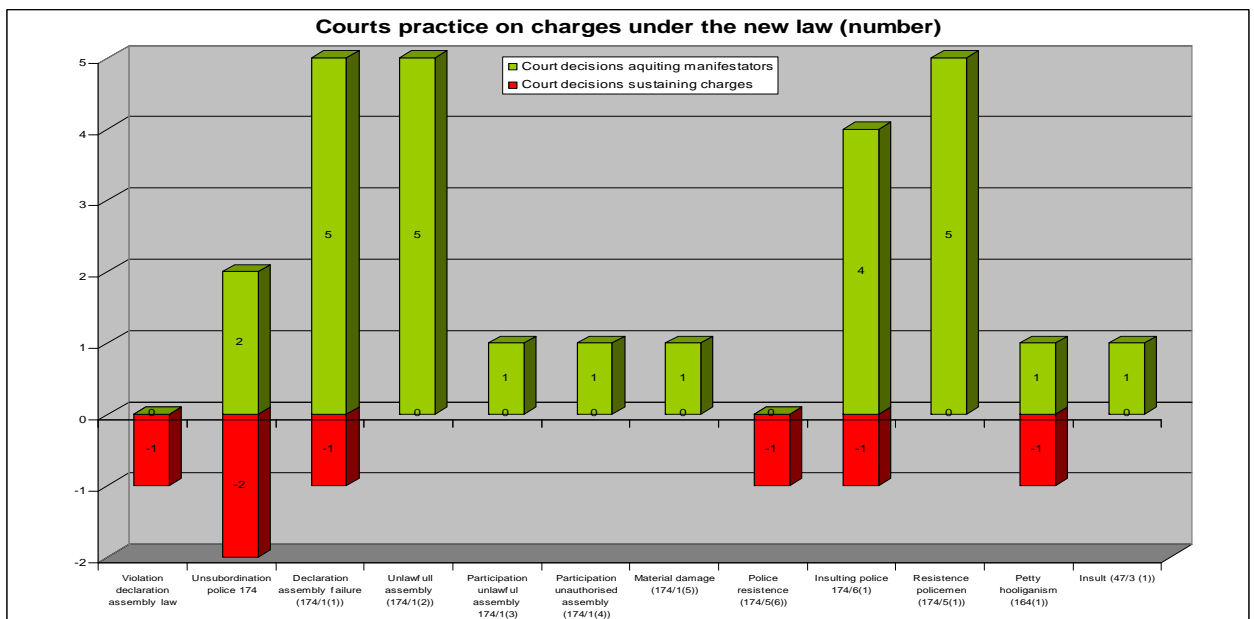
Most of the accusations brought by the police have not been upheld by the courts. Of the 20 cases brought by the police under the new law during the first two months, 13 have been rejected by the courts in the first instance courts and 6 have been rejected in the course of the appeal procedure. This means that 2/3 of the accusations brought by the police have been settled in favor of the organizers in the first instance procedure. The remaining cases have been rejected by the appeal courts. In the period of July-December 2008, number of cases brought against the organizers decreased significantly. During this period of time, only 6 cases of charges have been brought against the organizers, most of the courts decisions are not known yet, though, already in one case charges have been invalidated by courts of the first instance. This evolution can be seen as a clear positive sign.

Graph 5.12 Court acquittal jurisprudence



Courts enforcement of the assembly rights is a good result to ensure there is greater respect for freedom of assembly. The below graph shows that there are two types of cases where the courts sustain the charges against the organizers and participants: 4 cases of actions against the police while the later police the assemblies (insubordination to police, resistance to police, insulting police), 2 cases relating to the violation of assembly law and assembly declaration and 1 case of petty hooliganism.

Graph 5.13 Court jurisprudence- closer look



The courts, in the mentioned cases, enforce the assembly rights within the period of time from 2-3 week to 3-4 months⁴⁸ (including appeal procedure). This is unfortunately a significant delay in the administration of justice and the provision of the effective remedy for the assembly rights holders. Therefore, the time for the administration of justice in these cases represents a problem to be discussed.

5.3 Problems and Challenges

This subsection will discuss the evidence that depicts the remaining and also emerging problems that occur in the course of the application of the law.

⁴⁸ See case files of the judicial proceedings

Police intervention, suspension, dispersal and prosecution

Police intervention resulting into the de facto suspension of the assemblies represents a clear pattern of the undue use of the Legislation on administrative offences⁴⁹ (LAO) and of the freedom of assembly legislation. The law on assembly requires close scrutiny and solid justification for suspension of an assembly, but if the LAO is used, this can lead to the detention of the organizers of the assembly and consequently to the suspension of the assembly. The threat presented by the sanctions contained in the LAO are clearly not reconcilable with the higher threshold contained in the law on assembly, and therefore one could conclude that this will result in a violation of the provisions of the law on assembly. Police prefers to use the provisions of the LAO avoiding the provisions of the Law on Assembly. Consequently, charges under LAO result into the effective suspension of the assemblies.

The law on assembly provide for the specific procedural provisions and the conditions for the application of the material provisions of the LAO. Consequently, the law on the assemblies disallows the isolated application of the LAO; the later should be applied, if relevant, in connection of the exercise of the freedom of the assemblies' provisions. In conclusion, the law on the assemblies does not allow, the suspension of the assembly rights of the organizers or the participants at the expense of the application of LAO. The dispersal, the use of force and the detention has continued, although largely directed at a limited number of the organizers who use symbolic and expressive means of appealing to the society. This raises questions over whether this is due to either the lack of the police goodwill in interpreting the new law, in conjunction with the administrative sanctions legislation, or due to the insufficient precision and clarity in the new law.

Police presence at assemblies

Police increases its presence in the plain clothes and decreased its facilitation role with the assemblies. The law provides that the police have the obligation to protect the organizers of the assembly and at the same time to facilitate the organizers assembly rights^{50, 51}. The last tendencies in the application of the new law prove that in a number of cases, the police refrain from these positive obligations⁵².

Overall, the police presence at the assemblies decreased as much as 4-5 times per assembly and the ratio of the police in the uniform against the police in the plain clothes has reversed. The decrease in the police presence in itself does not present a problem, yet it might yield a problematic situation under some circumstances. Indeed, excessive police presence can have a chilling effect, yet, the police presence in adequate numbers and with adequate behavior has generally a positive effect giving confidence to the organizers. Qualitative case studies show explicitly how the presence of the third parties and particularly aggressive actors, who want to distract the assemblies', the absence of the police to guarantee freedom of assembly rights amounts to the failure of the police to exercise their positive obligations.

⁴⁹ Code of Administrative Offences (CAO) dated 1974, has been replaced in May 2009 by Contravention Code

⁵⁰ "The state has a positive duty to actively protect peaceful assemblies and this should be expressly stated in any relevant domestic legislation to freedom of assembly and police powers, para 26, OSCE/ODIHR, Guidelines on Freedom of Peaceful Assembly, 2007,

⁵¹ "The role of the law enforcement officials goes beyond recognizing the existence of fundamental rights and includes positively safeguarding those rights", para 115, OSCE/ODIHR, Guidelines on Freedom of Peaceful Assembly, 2007.

⁵² "Police officers should also be held liable for failing to intervene where such intervention may have prevented other officers from using excessive force", para 146, OSCE/ODIHR, Guidelines on Freedom of Peaceful Assembly, 2007.

The police presence in plain clothes rather than in uniform hinders the perception of the protection guaranteed by the state to the exercise of the assembly rights. Indeed, the police uniform presence has two effects: 1) hindering effect on the demonstrators emanating from the fact that police is perceived as the actor to intervene with the assembly, and 2) effect to create the sense of security in front of the aggressive action of the third parties or counter-demonstrators. Police presence has to balance these two considerations in its positive obligation to exercise its duties in the facilitation of the assembly rights.

Police absence from the scene creates the sense of insecurity with the assembly organizers. Substantial decrease of police presence with assemblies, under the circumstances of the cases of aggressive intervention on behalf of third parties, makes the assembly organizers feel insecure and vulnerable. Increasing numbers of the cases, when the aggressive parties intervene and disrupt the assemblies, call on the police to fulfill its positive obligation role to protect the assembly organizers.

Local administration and police capacity and cooperation on managing and facilitating of the assemblies

Absence of cooperation between the local authorities and the police in Chisinau municipality hinders the application of the law and the insurance of the assembly rights. The problems arise from the political tensions that exist between the leadership of the City Hall and of the Ministry of Interior (part of the tensions with the central authorities in general). These tensions strike against the good implementation of the assembly rights.

Police capacity to communicate with the assembly organizers is also crucial and is currently underrepresented. The communication should have several stages: 1) prior to the organization of the assemblies and 2) during the assembly itself and particularly while some complications or third parties intervene. Management of the simultaneous assemblies is of a particular importance given the existing practice of the tensions produced already in Moldova.

6. Analysis of Policy Options

This chapter discusses possible police options for the management of policing of assemblies. We first construct reasonably possible policy options and the criteria for their evaluation. Then we discuss comprehensively each policy option, evaluate their potential result and impact on the situation. Finally, we come with the conclusions and the recommendations for the preferred policy option that aim at the improvement of the policing of assemblies having as the reference point insurance of the freedom of assembly rights.

6.1 Discussion of Policy Options

This section develops policy options based on the discussions related to the organizational structure and the tactical approach of the various police bodies involved in policing of assemblies. The key lines of policy options elaboration are:

- A) structural and institutional optimization of police bodies involved in assembly management;
- B) changing assembly policing tactics and approaches;
- C) skills development relevant to the assembly policing and management.

Criteria for the evaluation in practice means to judge on the best option proposed. We suggest these criteria:

- 1) capacity to put in practice and administrate;
- 2) political feasibility;
- 3) cost efficiency,
- 4) conformity with the existing good practice.

In practice the policy options are built along the combination of the best police option mix of A (institutional set-up) and B (policing approach). Line C) of the policy option will be considered as the component part of B and in practice integrated into the respective policy option discussed.

Institutional optimization option is derived from the conclusions of the 3rd chapter. It goes along the possibility of: a) keeping 3-4 police bodies, as they are, in their role for assembly policing management, b) focusing assembly policing management to Police Commissariat (with overall management) in close cooperation with Scut police, 3) refocusing policing of assemblies to the Scut police (overall management) with specially created prevention assembly management unit with the support from district police commissariats. These three options at institutional level will be discussed:

- A1. “Status quo organization”: 1) District police/public order, 2) Scut police, 3) Carabinieri troops,
- A2. “District police”: 1) District police/public order, 2) With support from Scut police, and
- A3. “Scut police”: 1) Scut police with specially created prevention units, 2) With support from district police.

A1. “Status quo organization”: 1) District police/public order, 2) Scut police, 3) Carabinieri troops,

The “Status quo” option has been extensively discussed.

A2. “District police”: 1) District police/public order, 2) With support from Scut police

This option is a moderate modification of the current option, where District Police Commissariat and public order police retain its overall management of assembly policing. Scut police is to play a complementary role in supporting Police Commissariats.

A3. "Scut police": 1) Scut police with specially created prevention unit, 2) With support from district police.

This option provides for a more substantial switch of operation in management of assembly policing. In this case Scut is given the primary responsibility for the management of public assemblies; district Commissariats would only perform the documentation of public order violations, by deploying police investigators.

Changing assembly tactics and approaches is being derived from the 3rd, 4th and 5th chapter discussions and these options are strongly linked to the skills necessary thereof. These options should be also supported with the adequate equipment. The policy options are: a) confrontational perspective with narrow definition of public order maintenance (documenting violations), b) facilitation approach with communication among the police and organizers and adequate protection of the assemblies.

Assembly policing management tactics line policy options:

- B1. "Status quo tactics": 1) confrontational approach, 2) public order maintenance (documenting violations), 3) non-involvement in 3rd parties, and
- B2. "Facilitation/protection": 1) facilitation approach, 2) facilitation, protection, 3) public order

B1. "Status quo tactics": 1) confrontational approach, 2) public order maintenance (documenting violations), 3) non-involvement in 3rd parties

The current approach has been described in detail. It could be summarized as documenting potential public order violations by a documenting team from the police commissariat and presence of Scut police units at the scene to protect public order and buildings.

B2. "Facilitation/protection": 1) facilitation approach, 2) facilitation, protection, 3) public order

This tactical option provides for the substantial improvement. This change very much resembles the good practice described in the chapter 4. Police units would be developing the approach for the facilitation of the assemblies. Facilitation includes constructive communication, comprehensive risk assessment. Facilitation of assemblies includes their protection from the actions of third parties, particularly aggressive actors. Most of the changes lead to the upgrade of the communication, risk assessment skills, developing a different approach to assemblies.

For the policy analysis of the possible options we shall construct several policy options that look viable and at the same time reflect distant choice in order to make possible understanding of the comparative results. Therefore, we construct three possible policy options mixing organizational line options (A) and tactical line (B).

Policy option 1 (status quo):

- *A1. "Status quo - organization": 1) District police/public order, 2) Scut police, 3) Carabinieri troops,*
- *B1. "Status quo - tactics": 1) confrontational approach, 2) public order maintenance (documenting violations), 3) non-involvement in 3rd parties*

This is the current situation in both organization and tactical approach for assembly police management.

Policy option 2 (District police +):

- A2. *“District police”*: 1) District police/public order, 2) With support from Scut police,
- B2. *“Facilitation/protection”*: 1) facilitation approach, 2) facilitation, protection, 3) public order

This option provides for the extensive improvement in the tactical approach for the management of assemblies, improvement of skills, developing constructive engaging approach with the assembly organizers. This option foresees no role of Carabinieri troops and perhaps the relevant resources should be channeled towards Scut police.

The overall management of the policing of assemblies remains with the District commissariats as it stands now. District Commissariats police investigators currently and within this option would pursue their statutory duty to investigate cases of public order violations. Therefore, the initial institutional response of the documentation team is likely to keep the traditional focus. The Scut police support would be seen as crucial to facilitate public assembly, protect public order the assemblies themselves. In both cases, there should be skills upgrade and intensive trainings.

This option keeps the institutional tension as Scut police has its own juridical entity and is subordinated to General Police Commissariat and in case of the district police commissariats being responsible for the management of the situation, one could see institutional hierarchy mismatch.

Additional issue represents whether Scut police will undergo upgrade in the creation of the specialized prevention unit. A specialized unit that has experience and adequate skills and practiced tactical approaches in dealing with the assembly management should be welcomed in Scut. The unit could have around 50-75 personnel that could be deployed each time an event takes place.

Policy option 3 (Scut police +):

- A3. *“Scut police”*: 1) Scut police with specially created prevention unit, 2) Support from district police,
- B2. *“Facilitation/protection”*: 1) facilitation approach, 2) facilitation, protection, 3) public order

This option provides for the change in the organizational structure of the police and extensive improvement in the tactical approach for the management of assemblies, improvement of skills, developing constructive engaging approach with the assembly organizers. This option foresees no role of Carabinieri troops and perhaps the relevant resources should be channeled towards Scut police.

This option requires that after local authorities have informed the police of the intended assembly, the Scut policy takes the overall management, deploys the patrolling units or as necessary prevention unit. Scut police units have the objective to facilitate and protect the assembly. When district police is informed about the assembly, it has the responsibility to judge whether they need to be present on the spot to document cases of violation of public order. This function does not require the intervention with the assembly.

This option as the previous one requires substantial upgrade in skills and approaches of management of policing of assemblies. The issue of creation of the specialized unit is critical. A specialized unit is to have experience and adequate skills and develop practice in tactical

approaches in dealing with the assembly management. The unit could have around 50-75 personnel that could be deployed each time an event takes place.

Below we present a summary of the comparative analysis of the three possible options.

Table Comparative Criteria based Policy Options Analysis:

	Policy option 1 (status quo)	Policy option 2 (District police +)	Policy option 3 (Scut police +)
Policy option content description	A1. "Status quo - organization": 1) District police/public order, 2) Scut police, 3) Carabinieri troops B1. "Status quo - tactics": 1) confrontational approach, 2) public order maintenance (document violations), 3) non-involvement for 3 rd parties	A2. "District police": 1) District police/public order, 2) With support from Scut police B2. "Facilitation/protection": 1) facilitation approach, 2) facilitation, protection, 3) public order	A3. "Scut police": 1) Scut police with special prevention unit, 2) Support from district police B2. "Facilitation/protection": 1) facilitation approach, 2) facilitation, protection, 3) public order
Compliance with freedom of assembly	Low	Medium	Medium-to-high
Capacity to administrate implementation	Easy	Medium	Difficult
Political feasibility	Easy	Easy-to-medium	Medium
Cost efficiency	Low	Medium	Medium-to-high
Good practice	Low compatibility	Low-to-medium compatibility	Medium-to-high compatibility
Best option		Recommended from the administration perspective (short-term preference)	Recommended from result achievement perspective (medium-to-long term preference)

Comparing concurrent policy options to the status quo policy, we conclude that the former options stand much better than the existing policy regarding the implementation of the freedom of assembly. When comparing policy options, one has to compare policy outcomes rather than simply policy options. Projection of the possible policy outcomes should form the basis of the formal policy options comparative analysis.

The possible policy 3 (Scut Police +) outcomes could be tailored based on the experience from other jurisdictions. The research presented in chapter 4 reflects good practices developed in some jurisdictions. Good practice show that police approach and mentality, development of the relevant policing skills are crucial in the implementation of the assembly rights. In both our policy options, we attach adequate tactical facilitator-oriented approach in the implementation of the assembly rights to the police agencies in various organizational subordination lines.

The two additionally developed policy options differ by only who takes overall management of the assembly policing. In both cases operationally Scut police is involved to exercise facilitation and protection functions. In both cases Scut police is much more likely to have adequate resources and functions to maintain public order. Police Commissariat policemen mandate is limited to documenting public order violations. In both policy options, setting up a specialized police unit to manage public assemblies is necessary. There are around 90 assemblies organized

monthly. Management of this number of assemblies is likely to require relevant skills. This specialized unit to manage public assemblies is only possible within Scut police.

6.2 Conclusions and Recommendations

There are a number of causes that contribute to the difficulties and failures in the implementation of the freedom of assemblies' rights that reside within the police authorities. After the adoption of the new law on assembly in 2008, police has been called upon to play different role in the society. The law established the three core functions: facilitation of assemblies, protection of assemblies and protection and maintaining of public order. The first two functions have been introduced that challenged how the police have been doing so far policing of assemblies. This change has revealed the fact that new positive obligations imposed by the law on assemblies, left the police unprepared. Old tactical approaches in policing of assemblies run counter the new law obligations, skills and mentality has lagged behind, the policemen felt personally unprotected due to the absence of the personal equipment.

A comprehensive list of conclusions follows:

1. 3 various police bodies are responsible for the policing of assemblies, this creates the situation of unaccountability for the performed results,
2. in many cases (actually 80% of all assemblies) police commissariats have to command with, Scut police units and sometimes Carabinieri troops, units that are not directly accountable to them, this creates inter-institutional tensions,
3. assembly policing tactics approach focuses on protection of public order and maintenance of public order and sets back the facilitation the assembly and protection of the assembly, this approach transcends into the whole methodology of risk assessment, policing actions, police force deployment, etc,
4. police tactical management of assemblies command (back office) lack adequate skills and knowledge for the planning policing operations and the evaluation of the risks related to the assembly policing,
5. police front line assembly policing management responsible persons lack adequate skills and knowledge related to the communication, negotiation, crowd control, command of adequate special means (front line management),
6. police front officers and police force lack adequate skills and knowledge in relating to the assembly organizers and participants,
7. police forces are not adequately equipped, with both personal protection equipment and special means equipment,
8. training programs for the policing of assemblies (within Scut professional training for front-line officers, Police Academy for the assembly policing management and assembly management planning) are not adequate and particularly not practice-oriented,
9. assembly management tactical methodology and guidance plans reflect the old-fashioned public order maintenance perspective only and need to be integrally overhauled,
10. although Carabinieri forces do play some role in assembly policing, their added value remain insignificant in this matter.

Based on the identified problems and the analysis of the existing policy options, we recommend:

1. In the short run (1-2 years) to adopt the policy option 2, while in the mid-term and in the context of police reform to follow the policy option 3,
2. In both policy options a substantial change in planning and risk assessment and police force deployment is necessary;

3. To match the existing and forthcoming challenges of assembly policing, a prevention assembly management specialized unit should be created, composed of at least 50-75 specially equipment policemen that would be primarily involved in the assembly policing,
4. Equipping the police with personal protection means and general protection equipment relevant to the assembly policing is strongly recommended in any of the policy options preferred,
5. Transfer of resources for the assembly policing to Scut, particularly resources from Carabinieri.

7. References

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13. Ordinul Ministrului Afacerilor Interne Nr.435 din 13.11.2003 „Cu privire la aprobarea Regulamentului Comisariatului General de poliție mun. Chișinău”.
14. Ordinul nr.270 din 08.08.2005 „Cu privire la aprobarea Regulamentului Direcției Profilaxie a Direcției generale Poliție ordine publică”;
15. Ordinul Vice-ministrului afacerilor interne nr.203 din 05.09.2003 privind aprobarea Regulamentului Serviciului Statelor Majore ale Trupelor de Carabinieri ale MAI.

End Notes

ⁱ **Article 174¹ of the Administrative Contraventions Code.** Breach of legislation regarding assemblies.

1) *Breach of terms and ways of examination of declarations for carrying out assemblies – fined with 20-30 conventional units.*

2) *Organization and carrying out of unauthorized assemblies or breach of conditions (place, form and time) indicated in the authorization – fined with 20-50 conventional units.*

3) *Failure of organizer to comply with provisions of law – fined with 20-30 conventional units.*

4) *Active participation in unauthorized assemblies or those that breach authorized conditions - fined with 10-15 conventional units.*

5) *Participation in assemblies of persons with ammunition that can cause physical burden or material damage – fined with 5-50 conventional units or administrative arrest up to 15 days.*

6) *Preclusion under any form by the participants of the circulation of public transport or of functioning of institutions, organizations – fined with 20-59 conventional units or administrative arrest up to 15 days.*

7) *Involving children in the unauthorized assemblies or breach of conditions (place, form and time) indicated in the authorization – fined with 10-20 conventional units.*

ⁱⁱ **Article 174⁶ of the Administrative Contraventions Code. Insult of policeman ...**

1) *Insult of policeman, intentional insult of the honor and dignity, insult of other deeds of police or of a person that is in charge to maintain public order, combats criminality, expressed verbally or in written – fined with up to 10 conventional units or with up to 15 days of administrative arrest. 2) ...*

ⁱⁱⁱ **Article 174⁵ of the Administrative Contraventions Code. Resistance to policeman...**

1) *Putting resistance to a policeman or of a person that is in charge to maintain public order, combats criminality, expressed verbally or in written – fined with up to 15 conventional units or with up to 30 days of administrative arrest. 2) ...*

^{iv} **Article 170⁵ of the Administrative Contraventions Code. Involvement of children in political actions.**

Involvement of children in political actions – is fined with 20-50 conventional units.

^v **Article 191¹ of the Administrative Contraventions Code. Breach by foreign citizens or stateless persons of residence rules**

1) *Residence with no valid or expired identity card, entrance with the expired, terminated visa or stay beyond the 3 month term limit when visa is not necessary - fined with 30-50 conventional units. 2) ...*

^{vi} **Article 47³ of the Administrative Contraventions Code. Insult**

1) *Insult, intentional depreciation of person's honor and dignity by verbal or written actions – fined with 7-15 conventional units or administrative arrest up to 15 days. 2) ...*

^{vii} **Article 164 of the Administrative Contraventions Code. Petty Hooliganism**

1) *Petty hooliganism, words and insulting expressions in public places, depreciative anchoring of citizens or other similar actions that disturb public order and citizens peace – fined with 5 conventional units or if considered ineffective or given specific circumstances of the person fined with administrative arrest up to 15 days. 2) ...*