



Promo - LEX

Promovarea democrației și a drepturilor omului

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ANALIZED CASES 1-31 august, 2018

05.08.2018. Orhei. Violent elements during a public assembly.

Case description:

- On 05.08.2018, the Sympathizers of the Political Party Șor (PPȘor), coordinated by Mrs. Marina Tauber (Deputy head of the party), held a march, which started in front of the Orhei Stadium, and moved to the center of Orhei city. The purpose of the assembly was to express dissatisfaction with the request of some opposing parties (PAS¹, PPDA² and PLDM³ parties), to close "social shops" - an initiative of PPȘor President, Ilan Șor.
- In the center of the city, the participants of the march came across a group of representatives of the PAS, PPDA and PLDM parties, who were at that time holding a private assembly. The participants at the march surrounded the opposing parties' representatives and attacked them with brooms. The representatives of the PAS, PPDA, and PLDM fled in a nearby store. They were eventually blocked inside the store by several hundred PPȘor demonstrators, who were calling them out.
- The police present at the assembly blocked the entry into the store and improvised a cordon in front of the store, which was repeatedly penetrated by demonstrators gathered in front of the store.
- After being locked more than an hour inside the store, the PAS, PPDA and PLDM representatives decided to leave the store. The on-site police escorted her out of the shop, but it did not provide a safe perimeter in which those who left the store could move without being attacked. Thus, after the exit, the representatives of PAS, PPDA, PLDM were repeatedly attacked and hit with the brooms by the PPȘor manifests.
- No situations were observed where the marsh coordinator Mrs. Marina Tauber and the police would take measures to identify aggressive people and remove them from the venue.

Conclusion:

- ❖ The attacks with brooms of the demonstrators represent a violation of the public order, and according to art. 21 of the Law on Assemblies, the organizer, if necessary together with the police, had to remove them.
- ❖ The police failed to ensure the safety and security of PAS, PPDA and PLDM representatives and failed to protect them while escorting them.

¹ Party of Action and Solidarity

² Dignity and Truth Platform Party

³ Liberal Democratic Party of Moldova

23.08.2018. Comrat. Resolution on banning cultural and sporting events in Autonomous Territorial Unit of Gagauzia

Case description:

- On August 23, 2018, the Executive Committee of the Autonomous Territorial Unit of Gagauzia (ATU Gagauzia) approved the Resolution on banning cultural and sporting events in ATU Gagauzia. The ban was disposed without indicating an ending term.
- The Resolution refers to the Minutes of the ATU Gagauzia Commission on Exceptional Situations, held on 21.08.02018, with the participation of the Health Secretary of State of the Republic of Moldova, Mrs. Aliona Serbulenco.
- The resolution was adopted in the context of the multiplication of measles cases in ATU Gagauzia. The invoked purpose for the adoption of the resolution was to locate measles and prevent the spread of the disease on the territory of the ATU Gagauzia.
- Based on the resolution from 23.08.2018, the football matches scheduled during the local and national championships have been postponed. The celebrations of the Independence Day of the Republic of Moldova have been canceled in several localities in ATU Gagauzia.
- On 25.08.2018, a public assembly took place in Comrat (residence city of ATU Gagauzia), with the participation of about 100 people. The assembly was organized by the local opposition political movement “Devlet” led by Nicolai Dudoglo. The conduct of the assembly was not hindered by the authorities.

Conclusion:

- ❖ By approving the Resolution on the banning of cultural and sporting events in ATU Gagauzia, the Executive Committee of ATU Gagauzia has exceeded its competences conferred by the Law on Assemblies of the republic of Moldova.
- ❖ The right to ban assemblies belongs to the court and can be applied only individually for each public assembly separately.

26.08.2018. Chisinau. Great National Assembly Square. Simultaneous assemblies

Case description:

- On 30 July, 15 August and 21 August 2018, the Chisinau City Hall organized three assemblies with the participation of the organizers, who submitted preliminary declarations for holding public assemblies in the Great National Assembly Square (PMAN) on 26.08.2018:

- “Credinta Patriei”⁴ Association, with the declared purpose of promoting national-patriotic values (Prior notification submitted on 15.03.2018)
 - The Civic Group “Гражданское общество”⁵ (CGCS) for the purpose of protesting against the increase in fuel prices (Prior notification submitted on 25.06.2018)
 - PLDM (as representative of the National Resistance Movement ACUM (NOW), in order to hold a rally for democracy (Prior notification submitted on 28.06.2018)
 - Salvgardare Association with the purpose of the Consumer Assembly to be held (Prior notification submitted on 01.08.2018)
- During the assemblies, two organizers - CGCS and Salvgardare agreed to organize their assemblies together.
 - During the assemblies, the organizer, “Credinta Patriei”, declared unilaterally to give up their right to hold the assembly on 26.08.2018.
 - During the assemblies no compromise was reached between the representatives of the organizers and the Chisinau City Hall did not issue any provision regarding the conduct of the assemblies on 26.08.2018. The priority to organize an assembly was given to the CGCS.
 - On 26.08.2018, observers from at least 2 districts (Balti, Floresti) of the Republic of Moldova reported cases of mobilization of the police forces and their organized displacement in the Chisinau municipality
 - On 26.08.2018, observers from at least 2 districts (Balti, Glodeni) reported cases of organized displacement of Political Party Șor (PPȘor) representatives to Chisinau.
 - On 26.08.2018, at around 8:00 in the morning, PPȘor representatives installed a stage with powerful sound equipment connected to the electric power supply in the PMAN, installed mobile kitchens, grills, chairs, and tents.
 - The de facto organizer of the assembly, PPȘor, held the assembly without a prior statement in this respect. PPSor has not previously made any public announcements about the intention to hold the assembly on PMAN.
 - The assembly organized by PPȘor was surrounded by a cordon made of carabineer, separating along the central boulevard (Stefan cel Mare) the participants of the PPȘor assembly from the participants at the ACUM assembly and the participants of the CGCS assembly. The carabineers cordon was subsequently filled with police in protective equipment.
 - After installing the scene, the banner with the inscription “Lower oil prices” was placed on the stage installed by PPȘor before the assembly began.

⁴ Credinta Patriei – free translation from Romanian: *Faith to the Fatherland*

⁵ Гражданское общество – free translation from Russian: *Civil Society*

- Starting with 13:00, on the stage set up by PPŞor, Ms. Maia Laguta (A.O. Salvgardare) and Mr. Aurel Bucureanu (CGCS) took the floor. Later Mrs Maia Laguta stated that she believed that the scene had been installed by the Government for the official ceremonies on the Independence Day that were due to take place on 27.08.2018. Mr. Aurel Bucureanu made a speech in which he referred to the need to lower fuel prices.
- Subsequently, the representatives of the organizers - CGCS and Salvgardare, Mr. Aurel Bucureanu and Ms. Maia Laguta, respectively declared that they had no attribution at the assembly organized by PPŞor.
- Participants in the CGCS/Salvgardare assembly gathered in the PMAN and positioned sideways towards the scene and the PPsor installations.
- Subsequently, on the PPSor scene, Valeri Klimenko made statements that incite violence, with the following content addressed to the members ACUM: "We must destroy these radicals! We have to destroy them! They have no right to live!"
- The Dialogue Police was notified on the spot about the incitement. The representative of the Dialogue Police said there are responsible persons who document the protest.
- At around 13:30, in PMAN, the leaders of PPŞor, Mr. Ilan Şor and Mrs. Marina Tauber, promoted the social projects of Mr. Ilan Şor and also verbally attacked the participants at the ACUM assembly and its leaders Mrs. Maia Sandu and Mr. Andrei Nastase.
- In addition to PPŞor leaders, other party representatives, as well as European parliamentarians, Barbara Kapp, and Richard Milsom made speeches.
- During the speeches, several water bottles were thrown to the stage by the opponents of the Assembly.
- The participants of PPŞor have benefited from a free meal prepared by the organizers (bread, buckwheat, meat). While serving the meals, disputes occurred among participants (each attempting to gain access to free food).
- Apart from the bodyguards, the suite of Mr. Ilan Şor was surrounded by a group of aggressive minors. They attacked protesters, including the Promo-LEX observer, journalists and the elderly.
- The participants at the ACUM assembly initially gathered in the PMAN around the Triumphal Arch. After the speech of the speakers on the stage set up by PPŞor, they went to the Square of the Stephen the Great statue.
- During the PPŞor assembly, the bodyguards and other people in the entourage of Mr. Ilan Şor and Mrs. Marina Tauber blocked access and physically assaulted the journalists and the Promo-LEX monitor who wanted to get closer to the two. The Promo-LEX monitor immediately notified the police, but the policeman at the scene did not react in any way.

- At around 14:30, participants in the PMAN assemblies threw plastic bottles (filled with water) and a pair of shoes in both directions above the law enforcement cordon separating them.
- Around 14.40, Mr. Ilan Șor and Mrs. Marina Tauber left the assembly place escorted by bodyguards. Mr. Ilan Șor left the place through a corridor provided by the police under the leadership of the head of the National Parole Inspectorate, Mr. Liviu Baziuc. The assembly organized by PPȘor ended Shortly after the leaders left. Police obstructed the access of journalists to Mr. Ilan Șor.
- At around 15:00, the participants in the PPȘor assembly left the assembly, after receiving food distributed free of charge by the organizer. Law enforcement, did not provide their safety and security during their evacuation. PPȘor participants withdrew through a corridor formed by the participants in the other PMAN assemblies, being shout at and some being sprinkled with water.
- The PPȘor participants left the assembly place with several minibuses parked nearby.
- At around 15:30 PM, the participants in the assembly ACUM started a march to the Presidency of the Republic of Moldova (surrounded by the police) and the National Anticorruption Center.
- Over 1000 people attended the assembly organized by PPȘor. However, it is difficult to estimate the number of sympathizers of PPȘor, because within the isolated space for holding the PPȘor assembly there were also many persons who came to the ACUM assembly and the CGCS/Salvgardare assembly,
- About 7,000 people attended the ACUM assembly.
- The number of participants to the CGCS/Salvgardare assembly could not be estimated.

Conclusion:

- ❖ The assembly held by PPȘor in PMAN on 26.08.2018, was held with violations of the Law on assemblies.
- ❖ Representatives of the Chisinau City Hall together with the police forces were to prevent the installation of the fourth organizer of the assembly - PPȘor in the PMAN, in order not to prejudice the holding of 3 other simultaneous assemblies previously declared in the appropriate manner, if necessary to stop the assembly in the event of violation of the rights of other organizers to conduct the protest.
- ❖ The security forces treated preferentially the safety of the participants in the PPȘor assembly: Mr. Ilan Șor was provided with protection during evacuation, while the other participants were not provided with protection during evacuation.

- ❖ Municipal Enterprise “Lumteh” and Chisinau City Hall are to explain the legal grounds for connecting the equipment of PPŞor to the municipal power source.
- ❖ Foreign citizens who participated in the PPŞor assembly and spoke on stage were entitled to attend the assembly.

27.08.2018. Chisinau. Police intervention at the assembly held by the National Resistance Movement ACUM

Case description:

- On 26.08.2018 the National Resistance Movement ACUM (ACUM) could not hold their assembly in the stated place – Great National Assembly Square (PMAN). As a result, they started an assembly nearby, in the Square of the statue of Stephen the Great. The assembly was continued peacefully, throughout the night, with the participation of about 70 people.
- The assembly held in the Square of the statue of Stephen the Great was not notified according to the legal procedure at the Chisinau City Hall. Previously, on 22.08.2018, ACUM publicly declared that it intends to make a non-stop protest, following the assembly on 26.08.2018 in the PMAN.
- On 27.08.2018, at around 6 o'clock in the morning, the perimeter of the square was surrounded by several hundred police and carabinieri equipped protective equipment, helmets and batons. Leaders of Ministry of Interior, Police and Carabinieri were also present, including Mr. Liviu Baziuc, the head of the National Patrol Inspectorate and Mr. Marin Maxian, the head of the General Public Security Department of General Police Inspectorate.
- The representative of Chisinau City Hall Mr. Valeriu Bogdan (Head of the Legal Assistance Service) presented to the participants the Decision of Chisinau City Hall no. 649-d dated 24.08.2018, regarding the temporary limitation of the public access to certain public places in Chisinau on the day of 27.08.2018, and asked them to leave the Square of the Statue of Stephen the Great.
- The Decision of the City Hall no. 649-d dated 24.08.2018 provided the cease of all assemblies planned on 27.08.2018 in the perimeter of several streets in the center of Chisinau, including the Square of the statue of Stephen the Great.
- Decision no. 649 of 24.08.2018 was issued following the address of State Protection and Security Service (SPPS) to the Chisinau City Hall requesting to cease all the assemblies in the perimeter of several streets in the center of Chisinau on 27.08.2018, on the occasion of official ceremonies for celebrating the Independence Day of the Republic of Moldova.
- The representative of the law enforcement forces, Mr. Marin Maxian, called on the participants to leave the square temporarily during the official ceremonies. As

grounds for this request Mr. Maxian invoked art. 5 of the Law no. 26 regarding the assemblies and the Decision 649-d of 24.08.2018 of the Chisinau City Hall.

- Mr. Marin Maxian warned protesters that if they did not comply with the requests, they would be "removed" according to the procedure provided by the Law of assemblies.
- Within 10 minutes, by use of acoustic amplification systems, the representatives of the police forces repeatedly summoned the participants, to leave the square at a distance of 200 meters.
- Following the participants' refusal to comply, the law enforcement authorities intervened and forcibly removed the participants from the square. Some participants walked on their feet, others were forced or carried by carabinieri and police officers, some in protective equipment and others in plain clothes.
- During the intervention, police and carabineer wore protective equipment, which didn't have any forms of individual identification. Civilian persons who did not wear any sign of belonging to the police or individual identification, also participated in the intervention.
- The participants were moved about 100 meters away from the square, outside the sealed perimeter of the bd. Stephen the Great, behind a cordon of policemen and carabinieri, flanked by a metal fence.
- After the evacuation, at least one visually impaired protester required medical attention after being forced by law enforcement. Several protesters have claimed physical injuries as a result of police actions.
- The protest action continued peacefully behind the metal fence.
- At 09:30, the official ceremony at Stephen the Great statue began with the participation of the Prime Minister, the President and President of the Moldovan Parliament and other officials.
- After the official ceremonies were consumed, the policemen withdrew and the protesters were allowed to return to the Square of the statue of Stephen the Great after 11:15.
- The participants returned to the Square of the statue of Stephen the Great, after which they held a march through the center of the city and later returned to the Statue of Stephen the Great, where they concluded the assembly at around 13.00 hours.

Conclusions:

- ❖ The Decision no. 649-d of 24.08.2018 of Chisinau City Hall to temporarily close certain public places, for the purpose of facilitating official events was published

late, covered a perimeter much higher than the places eventually occupied by the official ceremonies and limited unjustifiably the space for holding public assemblies.

- ❖ The City Hall should have published immediately the Decision 649-d of 24.08.2018 to ensure that all the actors concerned know about its existence and its provisions.
- ❖ The ACUM organizers and participants should have complied with the police's requirements to allow the planned official ceremonies in the Square of the statue of Stephen the Great, and should have left the Square for the period of the declared official ceremonies.
- ❖ Starting with the evening of 26.08.2018, when a potential violation of the City Hall's Decision was found, the public authorities had at least 12 hours in which they could have initiated measures, which could have ended in a non-forcible release of the Square of the statue of Stefan the Great for the official ceremony on the morning of 27.08.2018.
- ❖ The authorities had a wide range of intervention options, which were not limited to non-interference and dispersal. Mediation and negotiation are at least two tools available to alleviate situations during an assembly. The General Police Inspectorate has recently launched the Dialog Police service, whose existence is justified and suitable for situations like the one created. However, this service was not used by police precisely in the situation when it was most needed.
- ❖ Stopping the assembly and dispersing the participants were exceptional measures, but the police resorted to those without considering other options.
- ❖ The police intervention was manifestly disproportionate with the involvement of an unjustifiably large number of law enforcement forces and the unjustified application of physical force against a relatively small number of peaceful demonstrators.
- ❖ Although the law does not prohibit the presence of police officers in plain clothes during the performance of their duties, it is not clear why was it necessary to involve them in the dispersal of the participants during the assembly of 27.08.2018, in the presence of hundreds of uniformed policemen.
- ❖ The application of force by civilians was only likely to create confusion and risk situations. The application of force without protective equipment represents an exposure to various risks of physical integrity. If no such risks were posed, then the need to wear protective equipment by uniformed policemen is unjustified.

27.08.2018. Chisinau. Police intervention at the assembly of the Civic Group OccupyGuguță

Case description:

- Starting with the end of June 2018, the OccupyGuguță Civic Group held a non-stop public assembly in the “Stefan cel Mare” Public Garden, near the “Guguță” Cafe. The assembly was notified according to the legal procedure at the Chisinau City Hall.
- Assembly participants installed a tent and displayed banners at the assembly place. During the assembly the participants organized singing performances, during which blowing and percussion instruments were used.
- The assembly took place peacefully and the participants did not demonstrate the intention to resort to violent actions.
- On the morning of 27.08.2018, approximately 15 peaceful participants were at the assembly place.
- On 27.08.2018, at around 7:40 am, the space near the “Guguță” café was surrounded by several hundred police officers in protective equipment under the leadership of Mr. Silviu Mușuc (Deputy Chief of Police Department of Chișinău).
- Immediately after the police arrived, a truck (COW 873) and several workers belonging to the Municipal Enterprise “Spatii verzi” (Green Areas) arrived in the area.
- Without any explanation or any supporting document, the police officers summoned the participants to gather their belongings and leave the place.
- At the same time, “Green Areas” workers began to load the goods of the participants in the truck.
- After a few minutes, when the participants secured some of the stuff, the police cordon blocked their access in front of the “Guguță” Cafe where their other goods were.
- At the request of the participants to provide a justification for the actions of police, Mr. Silviu Mușuc informed them that a decision has been taken in this regard, without giving any further details.
- The personal belongings of the assembly participants which were not secured have been loaded by the workers in the truck COW 873 and another truck (CCA 233) which arrived shortly on the spot. The personal belongings have not been inventoried, no minutes have been drawn up, and the organizers and participants were not notified about the place where their good have been transported.

- One of the participants in the assembly complained that the masked police officers addressed him with curse words, and two other participants said they had been physically assaulted by police officers. During the intervention, in the Stephen the Great Public Garden, beside the place surrounded by the police, public circulation was open and public space was not closed in any way for passers-by or participants in the assembly.
- At about 8:40 in the morning the police left the place near the “Guguță” Cafe.
- During the police intervention near the “Guguță” Cafe, the participants of the assembly stood in the nearby alley (about 20 meters away), where they made a few chants without being hindered in any way by the police.
- On 27.08.2018, official ceremony was held near the “Guguță” Cafe.
- As soon as the police left, the participants returned to the assembly place near the “Guguță” Cafe.
- On 28.08.2018 the participants reinstated the tent, the banner and resumed the assembly.
- At the time this report was published, the fate of the personal belongings of the participants taken during the police intervention remained unknown.

Conclusion:

- ❖ The intervention of the police with the contribution of Chisinau City Hall occurred in violation of art. 11 of the European Convention on Human Rights. The intervention of the law enforcement forces was disproportionate, without respect for the legal procedures and did not pursue a justifiable purpose from the point of view of the Law on Assemblies.

RECOMMENDATIONS

Organizers and participants

- To comply with the legislation of the Republic of Moldova in the field of public assemblies, in particular, notifying the assemblies and observing the conditions of conduct indicated in the notification.
- To abstain from acts and speeches that incite to hatred, disunity, discrimination or violence, which are illegal and may incite or cause destabilization of peaceful assemblies.
- To comply with the legal requirements of public authorities brought to the attention of the public in accordance with the legislation in force.

City Hall Chisinau

- To exclude from any future actions, the use and application of the notion and procedure for ceasing assemblies outside the context expressly provided for in the Law on assemblies.
- To immediately inform the public by placing on the City Hall's website any relevant provision for the conduct of public assemblies in the city.
- Be proactive in identifying solutions for accommodating public spaces in Chisinau for holding more simultaneous assemblies. To prepare assemblies distribution plans for Great National Assembly Square (the most requested meeting place in Chisinau) so that the place could accommodate at least two simultaneous assemblies without creating noise or movement obstacles for any of the assemblies.
- To verify the legality of the actions of the Municipal Enterprise "Lumteh" regarding the connection to the power source of the organizer PPȘor at the assembly from 26.08.2018.
- To verify the legality of the actions of the Municipal Enterprise Green Areas on 27.08.2018 regarding co-participation in the evacuation of personal belongings of the participants of the assembly of the Civic Group OccupyGuguță.
- To develop the capacities of the staff in charge of the public assemblies (numerical and qualitative) in order to be able to engage more effectively in communication, dialogue, mediation and negotiation with the organizers of public assemblies and law enforcement.

General police Inspectorate (and Carbineer Troops Department where applicable)

- To enforce the legal provisions in a non-discriminatory way and guarantee the security and the bodily integrity of the person regardless of his / her social or political title or political affiliation.
- Abstain from disproportionate measures (related to the number and equipment of law enforcement) used against peaceful participants at assemblies.
- To refrain from applying unilateral measures without having the decisions of the representative of the local public administration authority or the court, necessary for the intervention procedures during public assemblies.
- To ensure a form of individual identification of the law enforcement, such as identification number placed on the uniform and / or helmet, which would remain visible to the assembly participants.
- To use uniformed policemen, easily identifiable, and refrain from using police officers in plain clothes to help ensure, maintain and restore public order during public assemblies.
- To strengthen the capacity of the Dialogue Police service for non-violent interventions in difficult situations that occurs during public assemblies. To develop the communication, dialogue, mediation and negotiation capabilities of the personnel.

Ministry of Internal Affairs and the General Prosecutor's Office

- To investigate the actions of the law enforcement officers recorded in the current report during the assemblies of 26 and 27 August 2018 in the center of Chisinau.