



**Organization for Security and Co-operation in Europe  
Office of the Representative on Freedom of the Media**

## **SPECIAL REPORT**

# **HANDLING OF THE MEDIA DURING PUBLIC ASSEMBLIES**



22 OCTOBER 2020

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## ***Introduction***

This Special Report by the Office of the OSCE Representative on Freedom of the Media (RFoM) is a revised and updated version of its 2007 report on the treatment of journalists by law enforcement officials during political demonstrations.<sup>1</sup>

In recent years, there has been a worrying number of instances where journalists received particularly harsh treatment at the hands of law-enforcers while covering public assemblies in the OSCE region. On top of this, the Office of the RFoM has observed a rise in verbal and physical attacks on journalists committed by demonstrators and bystanders in several OSCE participating States. The death of 29-year-old journalist Lyra McKee during riots in Northern Ireland in April 2019 is a sad example of this deeply concerning trend.

In his report to the OSCE Permanent Council of 21 November 2019, the RFoM specifically called for attention to this problem:

*“I want to underline that several of these cases were linked to incidents with journalists reporting on public demonstrations. From covering protests or marches in Azerbaijan, Russia, Turkey, Kazakhstan, Spain or Poland, even if in very different contexts, too many journalists have been obstructed, brutalized or detained while trying to inform the public about these gatherings. This is a serious democratic concern.”*<sup>2</sup>

Overall, this spurred a renewed urgency to expand on the *modus operandi* of both law enforcement agencies and journalists at public assemblies, in order for the media to be able to provide coverage without undue hindrance.

### ***I. State authorities***

When it comes to public assemblies, it is important to note that the internationally recognized rights are twofold. First, all people should be able to freely and fully exercise their human right to assemble, to associate and to express themselves during peaceful public assemblies. Furthermore, citizens have a right to be informed about all public assemblies that are being held in their societies (including violent and unlawful ones) and about the reaction of the public authorities thereto. Since journalists play a crucial role in providing information, it is paramount that the media should be able to access and report on public assemblies safely and without undue interference. The European Court of Human Rights has affirmed that the public has a right to be informed about public assemblies taking place and how they unfold.<sup>3</sup>

To this end, public authorities, including law enforcement officers, should always respect journalists’ safety and refrain from using any form of obstruction of, or force and pressure against, journalists. It has been shown in many parts of the OSCE region that maintaining

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<sup>1</sup> Organization for Security and Co-operation in Europe, The Representative on Freedom of the Media Miklós Haraszti, 21 June 2007; *Special Report on Handling of the Media during Political Demonstrations: Observations and Recommendations*. <https://www.osce.org/fom/25744>.

<sup>2</sup> Organization for Security and Co-operation in Europe, The Representative on Freedom of the Media Harlem Désir, 21 November 2019; *Regular Report to the Permanent Council for the period from 5 July 2019 to 21 November 2019*. [https://www.osce.org/files/f/documents/3/8/439613\\_2.pdf](https://www.osce.org/files/f/documents/3/8/439613_2.pdf).

<sup>3</sup> *Najafli v. Azerbaijan* (2594/07), European Court of Human Rights First Section (2012), para. 66

public order during public assemblies can be fully compatible with the respect for freedom of expression and the work of the media.

In addition, authorities should live up to their positive obligation to both facilitate the work of journalists and to protect the media, ensuring a safe working environment. This means that authorities should guarantee media professionals “as much access as is possible to an assembly and to any related policing operation,” as stated in the *Guidelines on Freedom of Peaceful Assembly* by the OSCE Office for Democratic Institutions and Human Rights.<sup>4</sup> Furthermore, State authorities should take appropriate preventive operational measures, both effective and timely, including police protection. Lastly, as mentioned in the OSCE Ministerial Council 2018 Decision No. 3/18 on the Safety of Journalists, authorities should “condemn all attacks on and harassment of journalists” and should “endeavour to hold those directly responsible for such attacks and harassment accountable.”<sup>5</sup>



Since law enforcement officers are the State agents that mostly deal with public assemblies and are, therefore, the first-line bearers of the State’s international human rights obligations and OSCE commitments, this report will specifically address them. Before addressing this particular actor, however, it is important to note the following regarding the responsibility of other State authorities.

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<sup>4</sup> Organization for Security and Co-operation in Europe, Office for Democratic Institutions and Human Rights (ODIHR), 25 October 2010; *Guidelines on Freedom of Peaceful Assembly: Second Edition*. <https://www.osce.org/files/f/documents/4/0/73405.pdf>.

<sup>5</sup> Organization for Security and Co-operation in Europe, Ministerial Council Milan, 7 December 2018; *Decision No. 3/18 Safety of Journalists*. <https://www.osce.org/chairmanship/406538>.

First, it is usually other State agents deciding on the appropriation of means. They are therefore responsible for allocating enough resources to provide for the proper protection of the media during public assemblies.

Second, in some instances, State authorities have been responsible for creating a climate that is detrimental to the safety of journalists and which could lead to a violent attitude towards the media among the public. The 2018 OSCE Ministerial Council Decision on the Safety of Journalists clearly argues against these practices, noting that all political leaders, public officials and/or authorities should “refrain from intimidating, threatening or condoning – and to condemn unequivocally – violence against journalists,” since this may undermine trust in the credibility of journalists as well as respect for the importance of independent journalism.<sup>6</sup>

## ***II. Law Enforcement***

Since law enforcement officers are the most visible manifestation of government authority, their misconduct will reflect upon the State authorities. It is therefore in the interest of all governmental institutions to have law enforcement agencies deal with these issues in a proper manner.

During the last two reporting periods, from 5 July 2019 to 2 July 2020, the RFoM made 36 interventions regarding attacks against at least 140 journalists while covering public assemblies. Roughly two-thirds of these cases concerned mistreatment by law enforcement officials, ranging from impeding journalists’ work and seizing or damaging their property, to physically assaulting or detaining them. Other misconduct includes arresting journalists, or threatening to detain them – sometimes under the pretence of stopping incitement to illegal protests – and other forms of hindering the media from covering protests, like overzealously checking IDs or blocking their views.

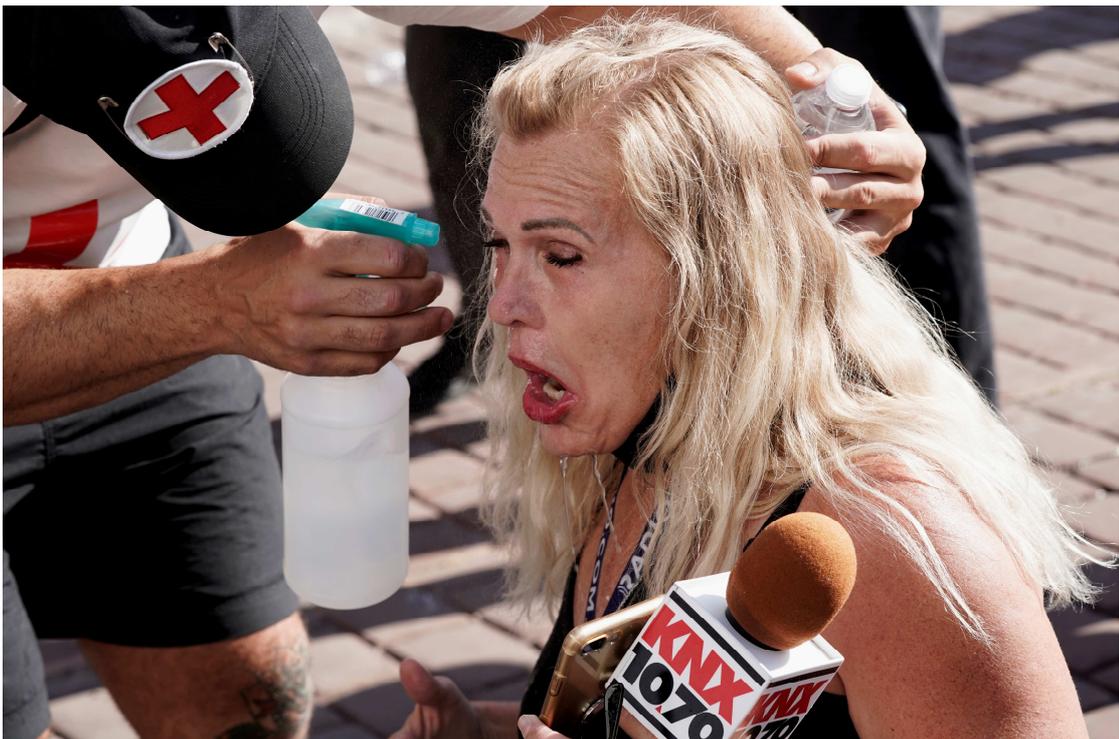
The OSCE RFoM has publicly raised concerns over several incidents at the hand of law enforcement officials related to public assemblies during the last two reporting periods, including the following:

- On 27 July 2019, at least 15 media workers working or contributing to various media outlets, including Novaya Gazeta, RBK, The Associated Press, Meduza, Komsomolskaya Pravda, Deutsche Welle, MediaZona, The Village, Wikinews and others, were assaulted, detained or had their equipment damaged by the Russian police while covering a public assembly.
- In August 2019, following public demonstrations in several Turkish cities triggered by the removal of several mayors in southeast Turkey, the Turkish police took several journalists into custody.
- On 19 and 20 October 2019, the police mistreated, verbally assaulted and shortly detained journalists from various media outlets who were covering public assemblies in Baku, Azerbaijan.

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<sup>6</sup> Ibid.

- On 17 November 2019, the police physically struck journalist Marios Aravantinos, from the online magazine Newsit.gr, while he was filming demonstrations marking the 46th anniversary of the Athens Polytechnic uprising, in Athens, Greece.
- On 9 December 2019, according to the National Union of Journalists, a police commissioner attacked two journalists from La Voix du Nord who were covering a high-school blockade in Paris.
- On 22 February 2020, three journalists (Akmaral Fedorova, Aleksey Vorobyev and Inga Amanbay) were detained while covering demonstrations in Uralsk and Almaty, Kazakhstan.
- On 24 February 2020, police arrested journalist Melissa Cox while she was reporting on protests against a gas pipeline construction in British Columbia, Canada.
- On 1 May 2020, a police officer mistreated a journalist who was part of a ZDF TV crew reporting on a demonstration in Berlin. The journalist suffered broken teeth and needed to go to hospital.
- On 13 May 2020, Veliša Kadić, a Serbian Večernje Novosti correspondent, was briefly detained while he was covering protests in the city of Nikšić, Montenegro. According to media reports, police sprayed pepper spray in his eyes and deleted footage from his phone.
- At the end of May 2020, a large number of journalists covering the protests that had erupted and spread across the USA, following the killing of George Floyd in Minneapolis on 25 May, faced arrest and force by the police, including the use of rubber bullets, tear gas, and pepper spray.



- On 15 June 2020, bloggers Eduard Palchis, Nikolai Maslovsky and Vladimir Tsyganovich were sentenced to 15 days of administrative arrest on charges of “participating in unauthorized events” on 31 May in Minsk, Belarus.

Enhancing institutional capacities to counter police violence against journalists begins with proper training. Senior officials responsible for police conduct have a duty to ensure that officers are adequately trained about the role and function of journalists, particularly during a public assembly. In its 2018 Decision on the Safety of Journalists, the OSCE Ministerial Council states that all authorities of the participating States should encourage “law enforcement agencies to engage in awareness-raising and training activities related to the need to ensure safety of journalists, and to promote the involvement of civil society in such activities, where appropriate.”<sup>7</sup>

Explaining the great importance of, and (legal) framework around, freedom of expression, should be part of any such training activity. In addition, the crucial role of the media in a democratic society should be taught and learned, including on such issues as what constitutes a journalist in the digital era (including the topic of citizen journalism), how they pursue their work, and which specific risks they face, both online and offline, during public assemblies. Having law enforcement officials meet with media workers to discuss these issues could prove a valuable experience.

Special attention should be given to the fact that the professional equipment of media professionals should be respected at all times. Seizing their tools of trade, such as cameras or recording equipment, or tampering with it, like erasing recordings, is unlawful. If law enforcement officials break or smash equipment deliberately, this should be considered a criminal offence and those responsible should be held accountable.

Another crucial learning point for law enforcement agencies concerns the issue of the so-called legal status of the public assembly. It should be made clear to all law enforcement officials that journalists have a right to cover any form of public assembly, irrespective of its legal status. Even in cases where the assembly could be regarded as illegal, the reporting on the event, and possible actions by government authorities, never is. Journalists who decide to cover such “unsanctioned” assemblies should be afforded the same treatment and protection by law enforcement agencies as those afforded to them during other public assemblies.

In addition, it is good to underline that no special permanent or ad hoc accreditation can be required of journalists wanting to report on events of public interest, except under very special circumstances where resources, such as time and space at certain events, are limited. In their 1991 Document of the Moscow Meeting of the Conference on the Human Dimension of the CSCE, the participating States note on the freedom of expression that: “Any restriction in the exercise of this right will be prescribed by law and in accordance with international standards.” They also proclaim that they would “take no measures aimed at barring journalists from the legitimate exercise of their profession other than those strictly required by the exigencies of the situation”.<sup>8</sup> In other words, accreditation, if at all considered, should fully comply with international standards on the right to freedom of expression and information. The RFoM Special Report on this topic later clarified the function of an accreditation system. “[It] was designed to allow journalists access to specific venues with limited space as well as access to

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<sup>7</sup> Ibid.

<sup>8</sup> Organization for Security and Co-operation in Europe, 3 October 1991, *Document of the Moscow Meeting of the Conference on the Human Dimension of the CSCE*. <https://www.osce.org/files/f/documents/2/3/14310.pdf>.

certain ‘closed zones’, including war zones and places deemed dangerous, or sealed off by the authorities for safety reasons. It also allows journalists to participate in official events and visits.”<sup>9</sup> As in most public places, such as streets or town squares, space is usually not limited, and access to these places should therefore not require special accreditation.

Another important step in ensuring proper treatment of journalists is the creation of a set of well-defined rules regulating the conduct by law enforcement officials towards the media during public assemblies, with clear instructions on how to manage the challenges arising from the presence of journalists at these events. This should include guidance on how law enforcement officials can protect journalists from attacks by protesters and bystanders. Such rules should be implemented, in particular through training activities and the appointment of officers in charge of facilitating the work of journalists during events that can lead to public unrest.

As noted, the number of attacks by hostile civilians against the media during public assemblies is on the rise.

The OSCE RFoM has publicly raised concerns over several incidents at the hand of civilians related to public assemblies during the last two reporting periods, including the following:

- On 28 September 2019, protesters attacked OKO.press journalists Agata Kubis and Maciek Piasecki, while they were covering a Pride parade in Lublin, Poland.
- In the week after 14 October 2019, the public attacked several journalists in Barcelona, Spain, despite identifying themselves as members of the press.
- On 19 January 2020, protesters assaulted journalist Thomas Jacobi while he was covering a demonstration of right-wing extremists in Athens, Greece.
- On 25 January 2020, demonstrators threatened and abused journalists reporting on a march in Leipzig, Germany, following a ban on Linksunten Indymedia.
- On 23 May 2020, a large group of demonstrators assaulted a journalist from La Razón, and harassed RTVE journalist Gabriel López, while they were reporting on a demonstration in Madrid, Spain.
- On 13 June 2020, far-right demonstrators physically assaulted Italian journalist Corrado Amitrano while he was covering protests on 13 June in London, United Kingdom.

Preventing threats, abuses and attacks on journalists, including any (attempts to) damage journalists’ equipment, and ensure that such deeds do not go unpunished is an important task of law enforcement agencies. The risk of “normalization” should be avoided at all cost. The 2018 Ministerial Council Decision on the Safety of Journalists calls on authorities to “[t]ake effective measures to end impunity for crimes committed against journalists, by ensuring accountability as a key element in preventing future attacks, including by ensuring that law enforcement agencies carry out swift, effective and impartial investigations into acts of

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<sup>9</sup> Organization for Security and Co-operation in Europe, The Representative on Freedom of the Media, Miklós Haraszti, 25 October 2006: *Special report: Accreditation of journalists in the OSCE area*. <https://www.osce.org/fom/22065>.

violence and threats against journalists, in order to bring all those responsible to justice, and ensure that victims have access to appropriate remedies”.<sup>10</sup>

Combating such crimes should include mechanisms to investigate and prosecute misconduct by law enforcement officials, via both internal and external (judicial) mechanisms, and the provision of procedures that offer some form of remediation.

### *III. The media*

One of the major practical considerations that law enforcement operators have to deal with during oftentimes chaotic public assemblies is the question of how to distinguish between the press and demonstrators. Therefore, there needs to be a mechanism whereby law enforcement officials can quickly assess who is entitled to the rights (including access) and protections as mentioned above.

For these purposes, media professionals should distinguish and be able to identify themselves as such, for instance by wearing clear emblems or the word “press” on their clothes. Ideally, such distinction should be agreed upon beforehand, in co-operation between the media and the authorities, to ensure proper recognition in sometimes heated situations.



As stated, law enforcement agencies should not use any form of obstruction of, or force and pressure against, journalists. At the same time, journalists can be asked to follow legitimate orders by law enforcement officers, for instance to disperse for reasons of safety. This may never be used, however, as a pretext to prevent media professionals from observing and recording the public assembly or policing operation.

A last important issue involves the fact that if journalists are politically active on the day of a public assembly, they must decide in what capacity to attend, either as a journalist or as a demonstrator. In the latter case, they should not abuse their special journalists’ rights and protections that they would normally be entitled to under the circumstances.

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<sup>10</sup> Ibid.

## ***IV. Summary of recommendations***

### **State authorities**

1. State authorities, including law enforcement agencies, should always respect journalists' safety and refrain from using any form of obstruction of, or force and pressure against, journalists.
2. State authorities should live up to their positive obligation to facilitate the work of journalists, providing as much access as is possible to a public assembly and to any related policing operation.
3. State authorities should live up to their positive obligation to protect the media, ensuring a safe working environment. They should take appropriate preventive operational measures, both effective and timely, including police protection from attacks by the hostile public.
4. State authorities should publicly condemn all attacks on, and harassment of, journalists at public assemblies and should endeavour to hold accountable those, including State officials, directly responsible for such attacks and harassment.
5. State authorities should allocate enough resources for the proper protection of the media during public assemblies.
6. State authorities should refrain from creating a climate that is hostile to the media, undermines its values, and is detrimental to the safety of journalists.

### **Law enforcement officials**

7. Senior officials responsible for police conduct have a duty to ensure that officers are adequately trained about the role and function of the free media in a democracy, and particularly their role during a public assembly.
8. Special attention should be given to the fact that the professional equipment of media professionals should be respected at all times. Confiscation or damaging of the tools of their trade, such as cameras or recording equipment, or tampering with recordings, is unlawful.
9. The legal status of a public assembly is irrelevant. Journalists who decide to cover so-called "unsanctioned" public assemblies should be afforded the same treatment and protection by law enforcement agencies as those afforded to them during endorsed public assemblies.
10. No accreditation can be required of journalists wanting to report on events of public interest, except under special circumstances where resources, such as time and space at certain events, are limited. In public areas, space is usually not limited, and would therefore not require special accreditation.

### **Media professionals**

11. Media professionals should distinguish, and be able to identify themselves as such, for instance by wearing clear emblems or the word “press” on their clothes.
12. In case media professionals are politically active on the day of a public assembly, they must decide in what capacity to attend, either as a journalist or as a demonstrator.