

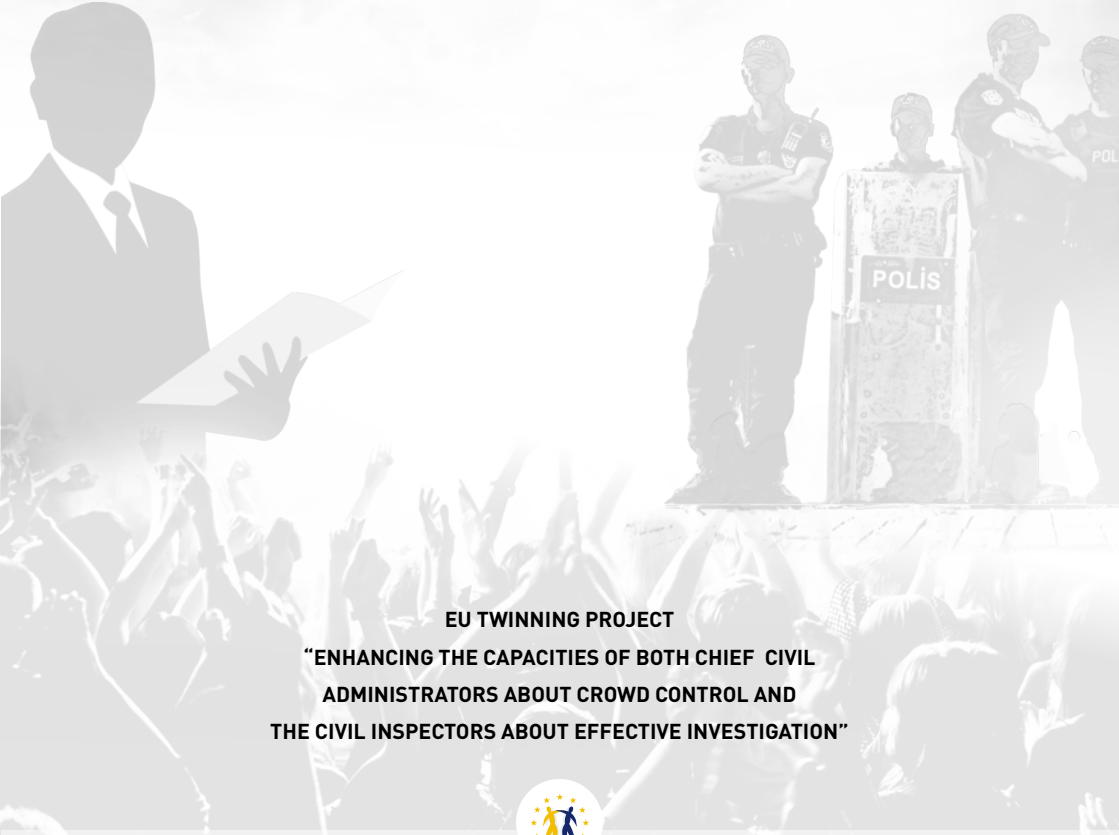


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A Guide for Chief Civil Administrators

Covering the Authorisation and Setting of Conditions
Relating To Applications to Hold Demonstrations,
Marches and Assemblies In Public Places



EU TWINNING PROJECT

**“ENHANCING THE CAPACITIES OF BOTH CHIEF CIVIL
ADMINISTRATORS ABOUT CROWD CONTROL AND
THE CIVIL INSPECTORS ABOUT EFFECTIVE INVESTIGATION”**



This is a Twinning Partnership between
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INTRODUCTION

People in the European Union have the right to associate freely and to protest peacefully in public within the limits of International law.

Chief Civil Administrators working with law enforcement agencies have a proud tradition of upholding those rights by the professional manner, in which they approach demonstrations, assemblies and other events,

There is no doubt that dealing with marches assemblies and protests can be both complex and challenging across Europe and so require Chief Civil Administrators and law enforcement agencies working together to achieve a successful and peaceful outcome.

This guide sets out a framework to assist Chief Civil Administrators when considering spontaneous and pre planned events within their jurisdiction.

This guide is intended as an aide memoire and not a definitive list of existing Turkish protest legislation

This guide is meant for use and cross referenced with the current Turkish legislation and also the aide memoire to proportionality found at Appendix A.

March 2018.

1. Core Principles for Chief Civil Administrators engaged in dealing with demonstrations, marches and assemblies in public places

- All crowd control operations should be intelligence led;
- The Command team under the presidency of the Chief Civil Administrator should operate under the principles of Strategic
- Tactical-Operational

-Chief Civil Administrators and crowd control commanders should have successfully completed relevant command training courses

-Chief Civil Administrators should ensure the strategic statement, Policing and Security Plan (tactical plans) and briefings are documented and communicated throughout the Organising Committee and Public Order Operations Centre as appropriate

-The Decision-Making Model (DMM) should be used by all engaged in crowd control operations;

-All decisions should be recorded;

-All actions and decisions must be compliant with:

- European Convention of Human Rights
- The Turkish Constitution
- Turkish Law, Policies and Regulations

-The Chief Civil Administrator should ensure all personnel engaged in crowd control events should be fully briefed beforehand as to what is expected of them;

-The Chief Civil Administrator should ensure a debrief is held at the end of every event to ensure lessons learned are captured and acted on.

-Chief Civil Administrators should ensure effective communication with the public, protestors and media be maintained at all times;

1.1 Role and responsibilities of the Chief Civil Administrator: Crowd Control events

The Chief Civil Administrators strategy is the foundation on which all subsequent planning and deployment rely.

The Chief Civil Administrators leadership ability and strategic oversight is therefore critical to the successful planning and deployments during a

Crowd Control event.

Role and responsibilities:

- is responsible and accountable for the policing of the operation/event
- determines the strategic objectives
- retains strategic oversight and overall command responsibility throughout the operation
- sets the tactical parameters of the operation
- sets, reviews, communicates and updates the strategy based on the threat assessment and available intelligence
- in response to a spontaneous incident, develops a working strategy into a formal strategy
- consults identified stakeholders when determining the strategy, including any partner agencies and community groups as appropriate
- ensures that the strategy for the incident or operation is documented (i.e.by a loggist) in order to provide a clear audit trail, which includes any changes to that strategy
- Chairs the Public Order Operations Centre (POOC) in response to an incident or operation,
- ensures that, where appropriate, crowd control command protocols are set, agreed and understood by all relevant parties
- considers setting tactical parameters for law enforcement response, which may include outcomes (preferred, acceptable, unacceptable)
- has, within the command structure, overall responsibility for health and safety, diversity, equality and human rights compliance and ensures that relevant assessments of the situation are completed

-identifies the level of support and resources needed to resolve the incident

-is responsible for the development of a media plan.

-suitably located in order to maintain effective strategic command by ensuring that appropriate communication mechanisms exist.

-reviews and ensures the resilience and effectiveness of the Public Order Operations Centre (POOC),

-approves a policing and security (tactical plan) and ensures that it meets the strategic objective for the incident or operation on an ongoing basis.

2. Chief Civil Administrators Strategy for Crowd Control Events

This should outline the overall intention of the operation, including the potential outcome(s) sought.

The strategy should establish a set of objectives relevant to the current knowledge of the situation and the analysis of the threats and risk presented.

Where practicable, the strategy should:

- be developed at the earliest opportunity
- be based on all the information available at the time
- be dynamic and capable of being reviewed
- aim to minimize recourse to the use of force
- include descriptions to explain each objective
- be unique for each incident
- specify the role of law enforcement in the operation

- if appropriate, specify the responsibilities and requirements of other partners involved
- provide a clear indication of the desired policing style, which should be reflected in the Policing and Security plan (tactical plan)
- The strategic objectives and the rationale behind them should be recorded as part of an audit trail, as should any revisions or amendments.

2.1 Operational Requirements for Chief Civil Administrators for Crowd Control

The following information assists the Chief Civil Administrator to identify unique operational requirements for example:

- location, scale, size and timing
- number and motivation of participants (e.g., protest, march,)
- specific vulnerabilities of the crowd (e.g., children's event)
- spontaneous incident or planned operation
- the role of the law enforcement
- relevant legal issues (including human rights)
- available information and intelligence
- level of media interest
- wider policing implications
- history of event
- results of threat assessment(s)
- adequate custody provisions to ensure appropriate detainee care.

2.2 Crowd Control-Tactical and Operational parameters

Tactical parameters that Chief Civil Administrators may consider for events may include:

- considerations associated with the duration of event(s)
- symbolic or strategically significant locations
- community or environmental factors
- prompts and restrictions
- tactics not to be used (e.g. tear gas, water cannon etc.).
- Operational parameters are the restrictions and constraints by which operational commanders must ensure tactics are deployed. They form part of the Policing and security Plan (tactical plan) and may include:
 - timing and duration
 - operational phasing to allow flexibility and review/amendment of tactics as the situation evolves
 - definition of the geographic and functional responsibilities of the operation
 - key or vulnerable individuals or groups
 - symbolic or strategically significant locations
 - environmental features
 - command protocols
 - contingencies
 - operational objectives

2.3 Policing style considerations

The Chief Civil Administrators strategy when dealing with Crowd Control situations should demonstrate an understanding of the potential impacts the policing style may have on relevant communities/groups.

The effective use of communication can enable Chief Civil Administrators and law enforcement agencies engage the public through key stakeholders, e.g. protest organisers.

This can help build a common understanding of the tactics the law enforcement may use to deal with any disorder and/or protest.

The adoption of a 'no promises' and 'no surprises' principle when engaging with protest organisers and protest participants and with partners and stakeholders can often lead to a successful operation for all.

2.4 Identification of Potential outcomes for Chief Civil Administrators engaged in Crowd Control events

The Chief Civil Administrators strategy should identify anticipated outcomes as follows:

- Preferred
- Acceptable
- Unacceptable.

The strategy should clearly demonstrate the potential outcomes which are acceptable in the circumstances and identify contingencies to resolve any unacceptable outcomes that could potentially arise.

3. Communication

Clear and effective communication plays an important part for Chief Civil Administrators and law enforcement when dealing with demonstration marches and assemblies.

Developing plans to communicate with the public, directly or indirectly, is an essential element of Policing and dealing with protest.

Chief Civil Administrators should consider developing community engagement plans that are tailored to suit the diverse nature of their communities

Communication principles also equally to internal and external internal communications between Chief Civil Administrators, law enforcement and also external communication, with public, protesters, partners and the media.

Chief Civil Administrators may apply the following principles relating to Communications in relation to Crowd Control events

- Participation and dialogue should be used whenever possible between Riot Control police officers and crowds to demonstrate a "no surprises" approach;
- Establish and maintain communication with communities, groups, partners, event organisers and others to build trust and confidence;
- Messages by the Chief Civil Administrators or law enforcement should be planned, unambiguous, clear and coordinated;
- Law enforcement where possible should have established a network of local information and intelligence sources capable of highlighting increasing community tensions;
- Opportunities for disseminating and receiving information provided through open source and other social media channels should be explored
- Media (including social media) should be used to explain law enforcement activity.

3.1 Media Considerations for Chief Civil Administrators Relating to Crowd Control Events

Liaison with the media is a priority in strategic and tactical planning.

The Media should be given access to Chief Civil Administrators where practicable.

A professional relationship with the media, even in difficult or complex circumstances, has a direct impact on maintaining public confidence in law enforcement and the event in general.

Consideration should be given to plans whether spontaneous or pre planned to liaise with the local media, key internal/external stakeholders and directly with the public.

This will help support the relationship between law enforcement and the public at times of heightened tension.

Any crowd control engagement plan should be developed in accordance with a wider community engagement plan or policy

Chief Civil Administrators and law enforcement should seek to maintain an open and flexible relationship with the media, while giving due regard to operational and investigative issues of confidentiality.

When practicable:

- a clear and factual account of the operation should be provided at the earliest opportunity, while taking care to avoid compromising the operation in any way.
- An experienced senior person should be will be appointed as Media liaison for those large events where the Chief Civil Administrator needs specific media advice.
- A Media liaison person should have knowledge of crowd control policing and the tactics, will can act as a media advisor to the Chief Civil Administrator, to be able handle communications and media relations.

- Media liaison should be supported by experienced staff who will directly communicate with the public and the media based on the Chief Civil Administrators instructions.

- In all cases, staff coming into contact with the media and the public should be given guidance about the information that they should/should not be released based upon the direction of the Chief Civil Administrator

3.2 Objectives and Development of a Media Plan for Crowd Control Events.

An individual appointed by the Chief Civil Administrator should be responsible for preparing a media plan that reflects the operational requirements of the Chief Civil Administrator and the information they want communicated.

The purpose of the media plan is to:

- Promote and maintain public safety;
- Disseminate information to the public;
- Gather information from the community;
- Strengthen public confidence in law enforcement action;
- Reduce the fear of crime;
- Address misinformation and dispel rumour.

4. The Legal framework

There exist a number of core principles which govern and direct Chief Civil Administrators when dealing with demonstrations marches, assemblies and associated activities. Chief Civil Administrators must operate within the limits of:

- International law (of which Turkey is a signatory) e.g. ECHR
- The Turkish Constitution
- Statutory laws e.g. Law 2911
- Regulations and directives.

The Constitution of the Republic of Turkey specifically highlights two articles that Chief Civil Administrators must work within when considering upholding the rights of the Turkish people rights, and the approach they take towards crowd Control events:

- Article 33-Rights and freedoms of assembly-Freedom of association (As amended on October 3, 2001; Act No. 4709)
- Article 34 Right to hold meetings and demonstration marches (As amended on October 3, 2001; Act No. 4709)

The right to hold meetings and demonstration marches can be restricted by Turkish law on a number of grounds:

- National security,
- Public order,
- Prevention of commission of crime,
- Protection of public health
- Public morals
- The rights and freedoms of others.

The formalities, conditions, and procedures to be applied in the exercise of the right to hold meetings and demonstration marches are prescribed by Turkish law (Law No. 2911) and the European Convention of Human rights. (ECHR).

Relevant Turkish laws regulations and directives in relation to protests and demonstration are detailed below but it should be noted that legislation, case law, statues and directives can change and evolve on a frequent basis so it is recommended that this guide be regularly reviewed and updated and the user must verify that the reference material has not changed or been amended before its use

LAW	TURKISH NAME
European Convention on Human Rights	Avrupa İnsan Hakları Sözleşmesi
Constitution of the Republic of Turkey	Türkiye Cumhuriyeti Anayasası
2911-Law on Meetings and Demonstrations	2911-Toplantı ve Gösteri Yürüyüşleri Kanunu
5442-Law on Provincial Administration	5442-İl İdaresi Kanunu
3201-Police Organisation Law (published in 1937)	3201-Emniyet Teşkilatı Kanunu (ETK)
2559-Law on Duties and Powers of Police	2559-Polis Vazife ve Salahiyet Kanunu (PVSK)
REGULATIONS	
Regulation on Riot Police	Polis Çevik Kuvvet Yönetmeliği
Regulation On the Implementation Of Law On Meetings And Demonstrations	Toplantı ve Gösteri Yürüyüşleri Kanununun Uygulanmasına Dair Yönetmelik
Regulation on the Organisation, Duties and Practices of the Governorates' and District Governorates' Units	Valilik Ve Kaymakamlık Birimleri Teşkilat, Görev Ve Çalışma Yönetmeliği
DIRECTIVES	
Directive on Riot Police Special Team	Çevik Kuvvet Özel Tim Yönergesi
Directive on the Preparation and Implementation of Security and Public Order Plans (JGY-117) (published in 1992)	Emniyet ve Asayiş Planları Hazırlama Ve Uygulama Yönergesi JGY 117 (1992)
Directive on the Rules and Procedures for Conducts of Staff Involved in Public Events	Toplumsal Olaylarda Görevlendirilen Personelin Hareket Usul ve Esaslarına Dair Yönerge
Directive on the Assignment of a Negotiator for Public Events	Toplumsal Olaylarda Müzakereci Görevlendirilmesine İlişkin Yönerge
Directive for Gendarmerie	Jandarma Yönerge
Directive on Principles of Intervention to Public Events-published in 2013	Toplumsal Olaylara Müdahale Esasları Yönergesi-2013

All the above Laws, regulations and Directives **must** be used in accordance with regards to the European Convention on Human rights (ECHR).

4.1 European Convention on Human Rights

The Convention for the Protection of Human Rights and Fundamental Freedoms– the European Convention on Human Rights is the most important form of expression of the commitment of the member states of the Council of Europe to the values of democracy, peace and justice, and, through them, to respect for the fundamental rights and freedoms of the individuals living in these societies.

There is a requirement under the Human Rights convention for all public authorities, including law enforcement to act in a way which is compatible with the European Convention on Human Rights (ECHR) unless they are prevented from doing so by primary legislation, or by secondary legislation made under the primary legislation which cannot be interpreted compatibly with the convention.

The ECHR Articles include:

- ECHR Article 2 (the right to life)
- ECHR Article 3 (the prohibition of torture)
- ECHR Article 5 (the right to liberty and security)
- ECHR Article 8 (the right to respect for private and family life)
- ECHR Article 9 (freedom of thought, conscience and religion)
- ECHR Article 10 (freedom of expression)
- ECHR Article 11 (freedom of assembly and association)
- ECHR Article 14 (prohibition of discrimination)
- Protocol 1, Article 1 (right to peaceful enjoyment of property).

ECHR principles must sit at the heart of the conception, planning, implementation and control of every aspect of the operations of law enforcement

Not all ECHR Article rights operate in the same way, some are 'absolute' while others are 'limited' or 'qualified' in nature.

Absolute rights: States cannot opt out of these rights under any circumstances – not even during war or public emergency.

There is no possible justification for interference with them and they cannot be balanced against any public interest.

Examples of absolute rights are the prohibition of torture and inhuman or degrading treatment in Article 3, and the prohibition of slavery in Article 4(1).

Limited rights: These are rights that are not balanced against the rights of others, but which are limited under explicit and finite circumstances.

An example is the right to liberty and security in Article 5.

Qualified rights: These are rights that can be interfered with in order to protect the rights of other people

Finally, the national authorities, including the courts, must give priority to the ECHR over any national law conflicting with the ECHR and the court's case law.

4.2 Setting Conditions on Protest-The Principle of Proportionality

This requires there to be a link between the reason for the restrictions the exercise of freedoms and the measures employed to achieve that purpose.

Examples of restrictions include but are not limited to restrictions on the route of the procession, prohibiting a procession from entering a particular area, restricting the location and the duration of the assembly.

The Chief Civil Administrator may impose conditions on the procession or assembly if they reasonably believe that there is a threat to national

security or public disorder for example however when making those decisions around what restriction to place, they should be cognisant of the European Convention on Human Rights and the Turkish constitution and consider the following:

- Is the purpose sufficiently important to justify the restriction? That is, are there relevant and sufficient reasons to justify the restriction?
- Will the measures proposed achieve that purpose?
- Are the measures to be taken the least restrictive to achieve the intended purpose?
- Are the restrictions to rights necessary to meet the legitimate aims set out in the rights and regulations concerned?

If the answer to all four questions is yes, then the conditions and restrictions will be proportionate

4.3 Principles for Placing Restriction or Conditions

In relation to any restrictions considered, under law 2911, the following 6 (P.L.A.N.E. J) principles should be considered (see Appendix A).

Proportionality:

- Are the actions or decisions taken or conditions placed proportionate to the circumstances?
- What is the purpose of the restriction?
- Is the purpose sufficiently important to justify the restriction?
- Will the measures you propose to take, achieve that purpose?
- Are the measures you are taking the least restrictive measures you could take to achieve your purpose?
- Do the measures maintain a fair balance between the rights of the protesters and the general interest of the community

Legitimacy:

- Is the action or decisions lawful under the constitution, Turkish and International law?

Accountability:

- Chief Civil Administrators are primarily responsible for their own actions and decisions

Necessity:

- Does the situation call for subduing action? Does the action or decision best serve the interest of the Turkish people?

Ethical:

- Is the action or decision the most appropriate one to avoid activities that do harm to the Turkish people or the environment?

Justifiable:

- Is the action or decision taken able to be shown to be right, reasonable or defensible?

5. Use of Force Considerations for Chief Civil Administrators engaged in Crowd Control Events

Chief Civil Administrators should always consider and give guidance on the policing style and be cognisant that any use of force should always be proportionate to the perceived threat of disorder and violence, if any, posed by the event.

The following principles assist in that process;

- The demonstration, consideration and application of relevant human rights principles;
- Chief Civil Administrators and law enforcement powers should be used appropriately and proportionately;
- Planning should be based on information and intelligence;

- Chief Civil Administrators and law enforcement should make professional judgments based on information and experience and not just rely on formally assessed intelligence;
- Use of force implications should be considered throughout the event

6. The Right to Peaceful Assembly and Demonstration

Article 3 Law 2911 states that everyone has the right to hold unarmed and peaceful meetings and demonstration marches without prior permission for the purposes that are not considered a crime by the laws

This right is also enshrined in:

- Article 11 The European Convention on Human rights (ECHR)
- Article 33 he Turkish Constitution:
- Article 34 The Turkish Constitution:

Article 11 ECHR relevancy for Civil Administrators

Chief Civil Administrators routinely make decisions regarding public protests, demonstrations or marches and are involved in strategic and tactical decision and policy making around those events such as placing conditions.

Chief Civil Administrators must interpret legislation as far as possible in a way that is compatible with the Convention rights.

This means they must always be alert to policies or actions that might interfere with a person's right to freedom of assembly and association.

What does Article 11 ECHR mean for Crowd Control?

Everyone has the right to assemble with other people in a peaceful way, and the right to associate with other people, including the right to form a trade union. Everyone also has the right not to take part in an assembly or join an association if that is their choice.

Key words and meanings:

Freedom of assembly-This applies to static meetings marches, public processions and demonstrations. The right must be exercised peacefully without the threat of violence or violence and in accordance with Turkish law.

Freedom of association-A right to a person's freedom of association includes the right to form a political party (or non-political associations or other groups), the right not to join and not to be a member of an association. This means that no one can be compelled to join an association. Any such compulsion may infringe Article 11 ECHR.

Article 11 ECHR is a qualified right under the Human rights act which means that the rights that can be interfered with in order to protect the rights of other people or the public interest.

If a restriction has a legitimate aim, such as public safety, and the restriction itself does not go any further than absolutely necessary to protect this aim, then it is likely that it will be compatible with ECHR.

Negative Duty: A Fundamental duty that falls to the state to safeguard the right to peaceful meetings demonstrations and Marches.

The State must not prevent, hinder or restrict peaceful assembly except to the extent allowed by law. They must not impose unreasonable indirect restrictions on persons exercising their rights to peaceful assembly, e.g. imposing a condition on the location of a protest which effectively negates the purpose of the protest.

Positive Duty: A Fundamental duty that falls to the state to safeguard the right to peaceful meetings demonstrations and Marches In certain circumstances, the state has a duty to take the necessary reasonable steps to protect those who want to exercise their rights peacefully.

This applies where there is a threat of disruption or disorder from others. This does not mean that there is an absolute duty to protect those who want to protest, but the state must take reasonable measures in particular circumstances.

6.1 Restricting the Right to Peaceful Protest

The rights and freedoms enshrined in the Turkish Constitution and local laws are not absolute entitlements exercised without restrictions or conditions.

Their exercise hinges on the requirements of public order and the respect of other people's rights.

This means that they may be interfered with or restricted in certain circumstances if necessary and for a legitimate aim.

The state can impose restrictions on the freedoms of expression and peaceful assembly provided any such restriction is:

- Prescribed by law;
- In pursuit of one or more legitimate aims;
- Necessary;
- Proportionate.

6.2 Restricting or interfering with the right under ECHR Article 11 for Crowd Control Events

Article 11 ECHR may be restricted provided such interference has a proper legal basis, is necessary in a democratic society and pursues one of the following recognised aims:

- national security
- public safety
- the prevention of disorder or crime
- the protection of health or morals
- the protection of the rights and

- freedoms of others.
- The interference must be necessary (not just reasonable) and it should not do more than is needed to achieve the aim desired

6.3 Banning or postponement of meetings

Article 17 of Law 2911-The governor of the region, governor or district governor can postpone a meeting up to one month in order to ensure national security, public order, to prevent a crime and to protect public health and moral or the rights and freedom of others or they can ban in case of a clear and close danger regarding the commitment of a crime. The Ministry of Interior must also be informed.

Article 19 of Law 2911-The governor of the region, can postpone all meetings up to one month in one or all of the provinces or in more or several districts of a province in order to ensure

- national security
- public order,
- to prevent a crime
- to protect public health and moral
- to protect the rights and freedom of others.

The governors can ban all meetings up to one month in one or several districts of the province based on the same reasons and in case of a clear and close danger regarding a crime.

The banning decision is justified. The summary of the decision is announced via usual tools and the Ministry of Interior is informed.

7. The Rights of Freedom of expression and dissemination of thought relating to Crowd Control Events.

Article 26 of the Turkish Constitution states everyone has the right to express and disseminate his/her thoughts and opinions by speech, in writing or in pictures or through other media, individually or collectively.

This freedom includes the liberty of receiving or imparting information or ideas without interference by official authorities.

Article 10 ECHR relevancy for Chief Civil Administrators.

Chief Civil Administrators may have to make decisions regarding the regulation or policing of potential political demonstrations and may be involved in the regulation of that information and involvement with the media around public protests, demonstrations or marches

Chief Civil Administrators must interpret legislation as far as possible in a way that is compatible with the Convention rights.

7.1 What does Article 10 ECHR mean for Crowd Control?

Everyone has the right to hold opinions and to receive opinions and without interference by Chief Civil Administrators or the state.

The right also includes the freedom to express views.

Article 10 does not prevent the state from requiring the licencing of broadcasting, television or cinema.

Chief Civil Administrators should always be alert to policies or actions that might interfere with a person's right to freedom of expression.

Where possible Chief Civil Administrators should try to ensure that its policies or decision do not interfere with someone's right to freedom of expression

Key words and meanings

Expression- 'Expression' can cover holding views or opinions, speaking out loud, publishing articles or books or leaflets television or radio broadcasting, producing communication through the internet, some forms of commercial information and other activities.

It can also cover the right to receive information from others, so you can possess rights both as a speaker and as a member of the audience.

You can express yourself in ways people will not like or may even find offensive and shocking-however offensive language insulting to racial or ethnic groups would be an example where a lawful restriction on expression may be imposed.

Article 10 ECHR is also a qualified right under the Human rights act which means that the rights that can be interfered with in order to protect the rights of other people or the public interest.

If a restriction has a legitimate aim, such as public safety, and the restriction itself does not go any further than absolutely necessary to protect this aim, then it is likely that it will be compatible with ECHR.

7.2 Restricting the Right to Freedom of expression

Freedom of expression is a fundamental human right. It also underpins most other rights and allows them to flourish.

The right to speak your mind freely on important issues in society, access information and hold the powers that be to account, plays a vital role in the healthy development process of any society

At the same time, it is also universally recognised that it is not an absolute right, and every democracy including Turkey has developed a system of limitations on freedom of expression.

Assessing restrictions on freedom of expression, however, is an extremely complex matter.

Any interference with the exercise of freedom of expression must have a basis in the national law. In this case it is detailed in the Turkish constitution and has adopted by the state.

The Turkish constitution states Lawful restrictions may be imposed on the exercise of the right to freedom of expression, provided any such restriction may be restricted for the purposes of:

- National security
- Public order,
- Public safety,
- Safeguarding the basic characteristics of the Republic
- The indivisible integrity of the State with its territory and nation,
- Preventing crime
- Punishing offenders,
- Withholding information duly classified as a state secret
- Protecting the reputation or rights and private/family life of others
- Protecting professional secrets as prescribed by law or ensuring the proper functioning of the judiciary.

7.3 Restricting or interfering with the right under ECHR Article 10 for Crowd Control

The right may be subject to formalities, conditions, restrictions or penalties, but these must have a proper legal basis.

The interference must be necessary in a democratic society and pursue one of the following recognised legitimate aims:

- In the interest of public safety, national security or territorial integrity
- To prevent crime or disorder
- To protect health or morals
- To protect the reputation or rights of others
- To prevent the disclosure of information received in confidence
- To maintain the authority and impartiality of the judiciary

If a public authority (the state) does decide that it is necessary to interfere with someone's Article 10 rights, it will need to make sure that the policy or action is necessary, pursues one of the recognised legitimate aims and is proportionate to that aim.

A public authority (state) may be asked to produce reasons for its decisions

7.4 Restricting the Right to Freedom of Expression

Article 26 of law 2911 states that It is obligatory to have the names, surnames and signatures of the chairperson and six members of the organising committee on printed, reproduced or hand-written invitations, signs and announcements prepared for the purpose of communicating or making propaganda about the meeting or demonstration march.

It is also obligatory to post them in predefined places by the governorate or district governorate by complying with the methods mentioned in Article 6.

It is banned to have texts or pictures on these communication and propaganda materials or tools abetting a crime or provoking public.

It is allowed to communicate about the meeting or demonstration march with sound equipment starting from one day before the meeting or demonstration march until the starting time of the meeting, between sunrise and sunset.

The before mentioned tools and devices cannot be used outside of this period.

During meetings organised in closed places, it is not allowed to broadcast outside with sound equipment.

Article 27 of law 2911 states It is banned to encourage or provoke public for unlawful meetings or demonstration marches with the use of sound equipment, or verbal communication or by posting printed or reproduced or handwritten materials on walls or other places.

These behaviours are immediately banned by law enforcement forces.

Article 29 of law 2911 states those who hinder a meeting or demonstration march or those who violates the meeting or march by making it impossible to be held will be sentenced to 9 to 18 months of imprisonment, provided that their actions do not include another crime that would carry a bigger sentence.

Article 31 of law 2911 states those who prepare, print, reproduce and use the propaganda tools mentioned in Article 26 and which do not have the name, surname and signature of the chairperson and at least six members of the organising committee and those who do not respect the prohibitions and conditions mentioned in Article 26 will be sentenced to 6 months to 1 year of imprisonment.

Those having any picture or sign which can abet a crime or provoke public or those who use any other tools for these purposes, will be sentenced to 1 to 3 years of imprisonment provided that their actions do not include another crime that would carry a bigger sentence.

Article 33 (b) of law 2911 states The bearing of symbols of illegal organisations, uniforms with these symbols, or wearing clothes that are uniform-like or participating in meetings and demonstrations while covering faces completely or partially to prevent identification, and carrying unlawful posters, placards, slogans, pictures, signs, being transported in vehicles or chanting illegal slogans or broadcasting these on loud speakers/sound systems will be sentenced to 6 months to 3 years of imprisonment.

If the meeting and march is unlawful and if there is resistance to disperse, sentence is given in accordance with Article 32.

8. Organiser's Intentions

Peaceful intentions should be presumed unless there is compelling evidence that those organising or participating in a particular event will themselves use, advocate or incite violence.

"Peaceful" in this context includes conduct that annoys or offends persons opposed to the idea or claims that a public procession or assembly is promoting, within the framework of existing Turkish law.

The possibility of extremists with violent intentions, who are not members of the organising association, joining the demonstration does not take away the right to peaceful assembly.

Even if there is a real risk of a public assembly or procession resulting in violence or public disorder by developments outside the control of those organising it, such a procession or assembly does not for this reason alone fall outside the scope of protection guaranteed by Turkish constitution Law 2911 and the European Convention on Human rights.

9. The Decision-Making Model (DMM) for Chief Civil Administrators engaged in Crowd Control

The DMM is the key framework for strategic tactical and operational management and follow-up.

It is not intended to be prescriptive or to constrain Chief Civil Administrators and law enforcement but serves to give a structure that allows all aspects of an operation or event to be taken into account when making decisions.

Recording decision making

Chief Administrators are accountable for their decisions and must be prepared to provide a rationale for what they did and why

All decisions must be recorded, either by the individual making them, or a trained loggist on their behalf.

The DMM has five key components and a central core;

Code of Ethics: Decisions can be examined and challenged, both at the time and afterwards, the (DMM) is adopted for all as a consistent framework and in its centre is the Code of Ethics (COE).

This should include ECHR, the Turkish Constitution and the, 'Ethical Principles of Law Enforcement', as the (COE) for all decision making

For Chief Civil Administrators in particular when placing or considering restrictions they consider:

- Is what I am considering consistent with the Turkish constitution and code of ethics?
- What would the victim or community affected expect of me in this situation?
- What does the Government/law enforcement service expect of me in this situation?

- Is this action or decision likely to reflect positively on my professionalism and my role as an administrator generally?
- Could I explain my action or decision in public?



Information and intelligence – It is essential that as much information as possible is captured before and during the operation. This should be analysed to supply intelligence to the command team that is both timely and accurate. All decisions should be based on the latest intelligence.

Chief Civil Administrators as the decision makers should ask themselves:

- What is happening?
- What do I know so far?
- What do I not know?
- What further information (or intelligence) do I want/need at this moment?

Threat assessment – The intelligence will help to assess the level of threat posed by the event.

The threat can be to people, property or reputations. The threat assessment will determine the policing style of the operation, the resources required and the tactics to be used.

This includes assessing the situation, including any specific threat, the risk of harm and the potential for benefits. The development of a working strategy is used to guide subsequent stages by asking:

- Do I need to take action immediately?
- Do I need to seek more information?
- What could go wrong (and what could go well)?
- What is causing the situation?
- How probable is the risk of harm?
- How serious would it be?
- Is that level of risk acceptable?
- Is this a situation for law enforcement alone to deal with?

- Am I the appropriate person to deal with this?
- What am I trying to achieve?
- Will my action resolve the situation?

Powers and policy – All actions and decisions must be compliant with Turkish and international law and the relevant Turkish policies.

The Policing operation should be proportionate, legal, accountable, necessary ethical and justifiable (**PLANE J-see Appendix A**).

Tactical options-The intelligence and threat assessment will determine what tactics are best suited to peacefully resolving the situation.

Police and security plans (Tactical plans) must be drawn up and be in accordance with the Chief Civil Administrators strategy

Police and security Plan (Tactical plans) will be documented and used as the basis for briefing personnel on the operation.

Chief Civil Administrators should also consider:

- the options that are open and available
- the immediacy of any threat
- the limits of information to hand
- the amounts of time available
- available resources and support
- the different ways to resolve a situation) with the least risk of harm.
- their own knowledge, experience and skills
- the impact of potential action on the situation and the public
- what action to take if things do not happen as anticipated. If decision makers have to account for their decisions, will they be able to say they were:

- proportionate, legitimate, necessary and ethical?
- reasonable in the circumstances facing them at the time?
- **Contingencies** to consider:-What will I do if things do not happen as I anticipate?

The purpose of contingencies is to allow the event to return to its initial position as quickly as possible after an unforeseen event.

Consideration may therefore be given to having plans in place to deal with the following areas:

Strategic contingency considerations: for Chief Civil Administrators

- Event/protest organiser unwilling to engage.
- There is no organiser
- Loss of confidence in policing by the community/business
- Insufficient time to plan
- Demand outstripping ability for planners to support
- No control room availability
- Maintaining audit trail
- Hostile community engagement
- Hostile media reporting
- Protracted operation – hours, days – longer
- Ineffective Silver, Bronze, other
- Sickness/other abstraction from command team

Tactical/Operational contingency considerations-for example:

- Sit downs en route to event by protestors (Intervention/arrest policy)
- Break away march to different location. Intervention, powers, command.

- Sustained attack on vulnerable premises (Command/Reserves).
- Sustained attack on a venue (Command/Reserves).
- Protestors block main arterial route into town, mass sit down.
- Protestors form up in an unforeseen area
- Flash sit downs on arterial routes in delaying/disrupting vehicles
- Barricades on arterial routes.
- March from different form up point. (Command)
- Banners from the bridges.
- Protestors hanging from bridges over vehicle routes.
- Intrusive media involvement?
- Use of social media
- Serious disorder encountered
- Law enforcement units unable to move through Disorder.
- Convoys/vehicles severely delayed by traffic.
- Multiple injured officers
- Unrelated major incident e.g. Gas leak/fire.

General contingency points for Chief Civil Administrators and the POOC to consider

For example:

- Command
- Reserves-deployment protocol.
- Reserves: Standby locations.
- Chemical munitions –risk assessments/authority
- Cross area command protocols – who is in charge of what and when

- Dispersal authority, powers under Turkish law-e.g. Law 2911
- Dismissal Protocol (Who? And when).
- Disorder at form up point, who deals?
- Serious disorder – resilience of command and the Chief Civil Administrator
- Command protocols with armed assets.
- Operational learning – how?
- Audit trail – how to record conversations made on mobile phones?
- Communication, Coordination, Control
- Collective and individual use of force – who authorises use of batons?
- What is the legal frame work to stop people coming through a cordon?
- What is the legalisation to stop people breaking out of a containment

Legislation considerations:

- Stop and search authorisations/legislation? Locality? Application
- Pre-conditions on planned march.
- Pre-conditions on predicted march.
- Declaring of a Riot situation or Warning messages to the crowd
- Spontaneous conditions/protest who is in charge at what stage
- Law – least intrusive to achieve the lawful objective
- Containment is in place – how to ensure officers know what legal power.
- Human Rights-Proportionality and necessity – reasonableness

- least intrusive measures. Minimizing/reducing the recourse to the use of force.

Public Order Operations Centre (POOC) contingency considerations

For example:

- Reserves radio channels/contingency radio channels
- Radio Channel lots of units on one channel
- Management of intelligence flow
- Deployment of undercover law enforcement
- Management of reserve units
- Management of Riot Control Police Deployments
- Radio communications breaks down
- Completing any documentation-who?
- Resilience
- Knowledge of Policing and security Plan (a Tactical Plan)
- Use of mobile phones?
- Command radio Channel?
- How to restructure radio channels if become too busy
- Audit trail
- Fall back or regroup location for law enforcement?

Crime contingency considerations

- Arrest phase protocol or plan
- Intervention strategy/plan.
- Evidential Notes and hot debrief for example central location and welfare of Officers

- Evidence gathering link – who does it?
- Ability to retrieve evidence in disorder-who does it and how?
- Welfare of all involved
- Toilet facilities?
- Injured officers.
- Post incident procedures-what do you do at the end?
- Debrief/defuse the officers involved
- Separate hospital allocation for protest and Law enforcement

Arrested Persons contingency considerations: for example,

- Where to if large numbers-Splitting of protest groups
- Insufficient cell space – capacity.
- Evidential links
- Prisoners, holding/transport.

Media contingency considerations: for example,

- Press demand to move through law enforcement cordons?
- Who is the Chief Civil Administrator for the event –who speaks to the press?

Implementation – Action-Respond-Monitor-Review: During the operation, the NDM should continue to be used. Changes in intelligence may lead to a reappraisal of the threat, which in turn may lead to different tactics being used. Following the event, a debrief should be held to capture lessons learned and ensure they are acted on.

10. Disorder Model-A Crowd Control Aide for Chief Civil

Administrators

This Model explains the nature of disorder and may assist in managing crowd control operations, events and incidents where there is a risk of disorder or a potential for disorder to occur or further escalate.

Tension or disorder may be present in every community and social grouping. Its management should be regarded as a continuous partnership process rather than one of crisis intervention involving law enforcement as a single enforcement agency

State of Normality

The day-to-day state of order and policing provided within a community. This can vary widely from one area to another and even by time of day.

Effective information and intelligence management provides accurate information as to the current state. It should be recognised that communities are complex in nature and may be permanent or transient.

Tension

This manifests as a level of increased concern or feelings within a community, group or crowd. A trigger incident may result in movement from a state of heightening tension to disorder. Such incidents can be caused by the Law enforcement use of force the community or a third party

Disorder

This represents the stage at which mood is supplemented by action, whether isolated or sustained.

It manifests itself in disruption, damage or violence. Such disorder may occur following a single trigger incident or a series of incidents that have a cumulative effect.

At this level, unchecked or uncontrolled activity (including ineffective or incorrect Law enforcement response) may deteriorate into serious disorder

Serious Disorder/Riot

An escalation into widespread violent behaviour. This may take the form of violent protest, rioting, criminal damage, looting, and may include the use of weapons.

Unrest

This is the period, sometimes prolonged, when the rebuilding of relationships takes place. Sensitivity and trust are key factors in this process.

Chief Civil Administrators, law enforcement and partners should focus on a structured return to a state of normality and should be aware that it is possible to cause a return to disorder serious disorder through excessive or inappropriate action.

Progression through all stages is not necessary.

Dependent on the circumstances, it may be possible to return to the state of normality from any level.

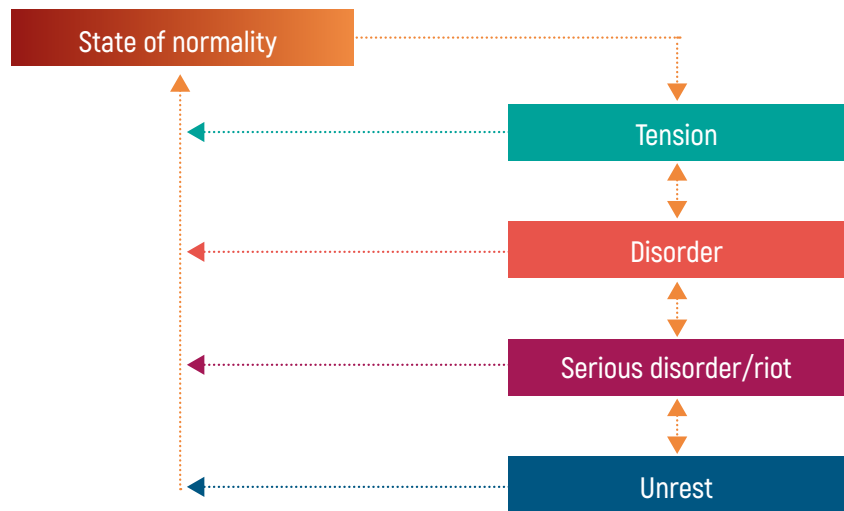
The stages from state of normality through to serious disorder/riot can be viewed in terms of an escalation in tension and conflict.

A return to the state of normality from any stage can be viewed as a de-escalation

10.1 Chief Civil Administrators Considerations When Using the Disorder Model

- The desired outcome should be the return to a state of normality (which may differ before and after an incident of disorder serious disorder)
- Chief Civil Administrators, Law enforcement and community, group or crowd may have different perceptions of the level of tension/conflict/disorder Effective community liaison may assist in reducing this
- information and intelligence to identify potential or existing conflicts/tensions within communities, groups or crowds can facilitate appropriate interventions
- rumours/misinformation relating to a dispute/disorder may circulate. These may include comments on the actions/responses of the law enforcement and should be corrected as quickly as possible.
- Prior investment in building relationships and liaising with communities, together with an effective engagement strategy which uses social media are key factors in being able to dispel such rumours.
- During periods of disorder normal policing services (both to the affected community and the wider policing area) should be maintained wherever possible
- force used must be the minimum required to achieve the lawful objective
- Any use of Force could be perceived as unnecessary and may result in escalation.
- Planning to reduce the need for force is, therefore, advisable.
- active partnership working involving law enforcement community and other agencies can help prevent disorder and reduce tension

- a trigger incident is any incident, however minor, that leads to an escalation in the level of tension/disorder.
- Chief Civil Administrators should make professional judgements based on information and experience, and not just rely on formally assessed intelligence.
- Chief Civil Administrators can use the different stages of the model to decide on their selection of relevant tactical options



Appendix A-Aide Memoire Conditions on Protest

