1.

In the view of the Federal Government, the passage "Assemblies can be held on publicly or privately-owned property [provided the property is publicly accessible]" in No. 13 is formulated too wide with regard to assemblies on privately owned property. The additional criteria from the ECHR’s “Appleby”-jurisprudence are mentioned only in No. 67. Germany proposes to add the following words within the brackets: "...and participants have no other reasonable way to convey their message to their target audience."

2.

The Federal Government proposes to delete the remarks on the carrying of weapons in No. 23. A general prohibition concerning the carrying of weapons can be regarded as a necessary and useful component of any general concept of security control. While Germany understands the reasons behind the remarks in No. 23, it should also be remembered that the carrying of weapons in some cultural traditions will be quite enough to render an assembly “violent”. If the remarks are not deleted, Germany proposes the following addition: "Depending on cultural traditions, the carrying of weapons may, however, in itself be regarded as sufficient to render an assembly potentially violent".

3.

In the Federal Government’s view, No. 60 does not sufficiently take into account the legitimate concerns regarding the use of prohibited symbols and uniforms. Restrictions of the use of uniforms, flags and other symbols which apply generally should also apply in the context of assemblies. Germany would like to see No. 60 revised in this respect.

4.

The Federal Government finds it important to clarify that the list of places contained in No. 66 should not be regarded as exhaustive or enumerative. While the public places listed there are good examples of places where restrictions may be foreseen, there are also other places which may for good reasons be provided with such perimeters. Examples are places of remembrance or of specific historical importance.

5.

In No. 70, the Federal Government regards the approach taken as too narrow. The OSCE guidelines referred to in footnote 79 specifically mention the proviso “so long as the mask or costume is not worn for the purpose of preventing the identification of a person whose conduct creates probable cause for arrest”. This is significantly less than “demonstrable evidence of imminent violence”. In the Federal Government’s view, this standard is too high. Therefore, we would ask the Committee to revise No. 70 accordingly.

6.

The Federal Government also suggests to revise the final part of No. 75. The concept of “marshal” is not clear. In German law, the nomination of a chairperson (“Versammlungsleiter”) for any public assembly is obligatory. However, whether such a chairperson comes under the definition of “marshal“, seems doubtful. In any case, the appointment of a chairperson seems to be a useful component of any overall security concept for an assembly.

 7.

With regard to state officials, the Federal Government points to the necessity of limiting the right to strike for certain groups of state employees, as recognized in the jurisprudence of the ECHR (e.g. Enerji Yapi-Yol Sen vs. Turkey, 68959/01, 21. 4. 2009, no, 32). If strikes are mentioned as one of the forms assemblies may take (No. 6), there needs to be a specific proviso recognizing the possibility of such limitations.