

CSO METER

Assessing the civil
society environment in the
Eastern Partnership countries

Georgia

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Civil Society Institute (CSI) is one of the leading CSOs in Georgia. Established in 1996, CSI facilitates the formation and development of civil society and democracy by promoting democratic values and the rule of law. CSI also educates social actors with the aim of increasing their civic activism and creating a more enabling environment for civil society.

CSI has a strong capacity for advocacy, along with sound experience in facilitating government-CSO relations. CSI experts have advised the Tbilisi and Batumi City Halls, the Ministry of Justice, the Ministry of Finance, and the Parliament of Georgia in developing policies. CSI has monitored the implementation of several state policies and developed reports. Since 1996, CSI has trained several thousand national and local government officials, CSO representatives and community members.

European Center for Not-for-Profit Law (ECNL) is a leading European resource and research center in the field of policies and laws affecting civil society. ECNL supports the creation of environments where people can organize freely, jointly shape and contribute to the development of societies. ECNL's activities help build conditions that enable civil society organisations to operate independently, be financially sustainable, have strong governance, engage in policy and mobilize public support. Beyond shaping policies, advocating for enabling environment for civil society, ECNL empowers local stakeholders, monitors implementation of tools and mechanisms, and creates knowledge base, through research and analysis.

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ABBREVIATIONS

CoE	Council of Europe	MoJ	Ministry of Justice
CSI	Civil Society Institute	MSYA	Ministry of Sport and Youth Affairs of Georgia
CSO	Civil Society Organization	MP	Member of Parliament
CSR	Corporate Social Responsibility	NELE	Non-entrepreneurial (Non-commercial) legal entity
DEU	Delegation of the European Union	NBG	National Bank of Georgia
EaP	Eastern Partnership	NAPR	National Agency for Public Registry
EC	European Commission	NGO	Non-Governmental Organization
ECHR	European Court of Human Rights	OGP	Open Government Partnership
ECNL	European Center for Not-for-Profit Law	PAR	Public Administration Reform
EE	Enabling Environment	PBO	Public Benefit Organization
EU	European Union	PDP	Personal Data Protection
FOI	Freedom of Information	SE	Social Entrepreneurship
GD	Georgian Dream	TACSO	Project for Technical Assistance to Civil Society Organizations
GYLA	Georgian Young Lawyers' Association	UNM	United National Movement
IDFI	Institute for Development of Freedom of Information	USAID	United States Agency for International Development
ISFED	International Society for Fair Elections and Democracy (ISFED)	VAT	Value Added Tax
LEPL	Legal Entity of Public Law		
LGBTQI	Lesbian, Gay, Bisexual, Transgender, Queer or Questioning, and Intersex		
MF	Ministry of Finance		
MIA	Ministry of Interior Affairs		
MIDP	Ministry of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees		

I. EXECUTIVE SUMMARY

The CSO Meter report in Georgia was developed by the Civil Society Institute (CSI). The report covers the period 2017-2018 but to ensure that the provided information is not outdated, the most important trends of 2019 are reflected in the document as well.

Freedom of Association

Georgian legislation creates extremely liberal preconditions for the establishment and operation of CSOs. Setting up a CSO is a simple and straightforward process. A simplified registration procedure applies not only to CSOs, but businesses as well.

Equal treatment

While registration is based on a transparent system that stipulates the establishment of a legal entity, the liquidation process is considered overly-complicated; legal entities mostly avoid it and prefer to remain inactive. In terms of other regulatory aspects, CSOs are not in a less favorable position in comparison with businesses. Nevertheless, the state does not invest to support CSOs' sustainability and development, unlike business sector. Moreover, state officials tend to attack and use hate speech against specific CSOs (i.e. watchdog organizations). Despite the predominance of negative attitudes from the government, it did not lead to imposing stricter laws.

Access to funding

Georgian CSOs may obtain various forms of funding from national and international resources. They do not face any significant obstacles from the state to seek and receive financial support. CSOs do not have any reporting obligations to the state unless they receive state funding or obtain charity status.

Freedom of peaceful assembly

Freedom of peaceful assembly is guaranteed by the Constitution of Georgia and international agreements. The main legislative framework is the Law of Georgia on Assembly and Manifestations which regulates the implementation of this right and was amended several times. Despite the liberal approach (e.g., issuance of a permit to hold an assembly is not required) enjoyment of this right is often accompanied by challenges. In the past few years, several cases have been recorded when the state failed to properly fulfill its obligation and to protect the individuals' enjoyment of their constitutional right.

Freedom of expression

Freedom of speech and expression is profoundly protected. The law of Georgia on Freedom of Speech and Expression is fully in line with international standards and is considered the most progressive law in the region. It elaborates the content of the right to freedom of expres-

sion, provides narrow and legitimate aims for restrictions and ensures access to the court in case of violation. In addition, the law regulates the protection of the rights of journalists and whistleblowers. The Constitutional Court of Georgia has also significantly contributed to setting a high standard of freedom of expression. In general, CSOs as well as individuals do not face any obstacles with the right to freely express.

The Georgian media landscape is free, vibrant and pluralistic, albeit slightly polarized. The practice shows that the setbacks are derived from the political influences on the leading media outlets.

Participation in decision-making

There are various mechanisms in place for participation in decision-making. The decision-making process is partially institutionalized; however in most cases the participation happens “ad hoc”. On the national and local level CSOs and other individuals have an access to important tools for participation such as: right to petition, submitting comments to draft laws, participation in budgetary process, etc. However, numerous laws and strategic documents are adopted without consultations. There is a lack of necessary tools for effective and meaningful participation. In addition, there is low interest among citizens and CSOs in participating in already established mechanisms.

Right to privacy

According to the national legislation, all people have a right to privacy. The reporting requirements for CSOs generally protect the privacy of the information about individuals, donors and respect the confidentiality of their personal assets. However, the state’s secret surveillance has been an issue of concern for many years. Due to the regulations adopted in 2017, the number of entities engaged in secret surveillance increased without sufficient guarantees of independence. A newly established State Agency was vested with excessive authority to conduct surveillance and collect data while oversight mechanism remains weak and formal. Important to note, the law also fails to comply with the Constitutional Court’s earlier decision. Many politicians, the Public Defender, CSOs, and businesses representatives expressed their worries about potential violations to the right of privacy.

State duty to protect

CSOs, their founders and members have effective means of legal defense for all decisions affecting their fundamental rights. CSOs enjoy the right to fair trial in any type of lawsuits brought by them or against them. On the other hand, in certain cases the state fails to pursue its positive obligation and to ensure that CSOs and associated individuals are fully protected. This is the case of LGBTIQ community, who require special protection from attacks and interference by third parties.

State Support

At present, there is a diversified and decentralized state funding system in Georgia. Within this model, each state institution issues funding (mostly grants) according to its mandate. The major problem is that the amount of state funding is limited and does not constitute a signifi-

cant portion in CSOs' overall income. Also, there is a lack of institutional support. The state funding system itself is characterized as chaotic and lacks transparency and effectiveness.

The law on volunteerism was adopted in 2015, however there is no data or research to examine how the law stimulated the development of volunteerism. Clearly, volunteerism has not managed to become a priority for the state. Despite several attempts from CSOs, the state does not have any strategy nor openness for cooperation in that regard.

Government-CSO cooperation

There are various platforms which create space for government-CSO cooperation. The positive examples of constructive collaboration include: the memorandum between the Parliament and CSOs, Open Government Partnership, structural dialogue between the state and CSOs in the framework of the Georgian National Platform for EaP Civil Society Forum. Moreover, there is a growing tendency to establish committees, working groups, councils on both the national and local level. Their functioning has improved over the years, but tangible results have not been achieved. There are no unified rules or standards to participate in such committees. The level of CSO participation in committees or other consultative bodies depends on the state institution and the topic.

II. INTRODUCTION

What is the CSO Meter?

The CSO Meter is a tool developed to support the regular and consistent monitoring and assessment of the environment in which civil society organizations (CSOs) operate in the Eastern Partnership countries. It consists of a set of standards and indicators in 10 different areas to measure both law and practice. It is based on a review of international standards and best regulatory practices.

The CSO Meter was developed through a highly consultative and collaborative process, supported by the European Center for Not-for-Profit Law (ECNL). It was co-drafted by a core group of local experts and consulted in three rounds with more than 807 CSOs across the region. A local partner in each of the six Eastern Partnership countries supported the process - Transparency International Anti-Corruption Center (Armenia); MG Consulting LLC (Azerbaijan); Assembly of Pro-Democratic NGOs in collaboration with Legal Transformation Center (Belarus); Civil Society Institute (Georgia); Promo-Lex Association (Moldova); Ukrainian Center for Independent Political Research (Ukraine).

What are the key elements of an enabling environment for CSOs?

For the purposes of the tool, the term “CSO” is used to define voluntary self-governing bodies or organizations established to pursue the non-profit-making objectives of their founders or members. CSOs encompass bodies or organizations established both by individual persons (natural or legal) and by groups of such persons. They can be either membership or non-membership based. CSOs can be either informal bodies or organizations, which have legal personality. They may include, for example, associations, foundations, nonprofit companies and other forms that meet the above criteria. The CSO Meter does not consider the environment for political parties, religious organizations or trade unions.

The CSO Meter is split into two main parts:

- **Fundamental rights and freedoms** are essential for the existence of civil society and include: (1) freedom of association, (2) equal treatment, (3) access to funding, (4) freedom of peaceful assembly, (5) right to participation in decision-making, (6) freedom of expression, (7) right to privacy and (8) state duty to protect.
- **Necessary conditions** ensure additional support for the development of civil society (though their existence without fundamental rights and freedoms is not sufficient to ensure an enabling environment) and include: (1) state support and (2) state-CSO cooperation.

How was the report developed?

The report is prepared by the local partner of the project in Georgia – Civil Society Institute, following a joint methodology for all six Eastern Partnership countries. The process has included data collection (through an online survey, focus groups, interviews, desktop research)

and analysis of the collected information.

In the framework of legal review, CSI examined all normative acts of Georgia that affect the civil society environment. The data on practice was collected through a survey, interviews and focus group meetings. 127 CSO representatives participated in a web survey¹. The majority responses (29%) are from the Capital. The participant CSOs mostly work on civil society development, youth, human rights and social issues. The focus group meetings were held in Batumi, Kutaisi and Telavi. The meetings were attended by a total of 32 CSO representatives. The participants were selected according to their area of expertise and experience. To obtain more in-depth information, CSI held interviews with the leading human right organizations: The Human Rights Education and Monitoring Center (EMC) and Georgian Democracy Initiative (GDI), Zugdidi's largest organization "Atinati". CSI also contacted the manager of the project "Combating Money Laundering and Terrorism Financing in Georgia" and one newly established CSO "Free Development Centre". Each interview was oriented on a specific area under CSO Meter. The Advisory board provided expert support throughout the process of collecting and analyzing the information.

The report reviews the 30 standards that are part of the CSO Meter and provides recommendations for improvement in each of the 10 areas covered. It also outlines the most important findings and recommendations in the end. The recommendations could serve as a basis for future reforms that the government can undertake to improve the environment for civil society in Georgia.

¹ When analyses the graphs from the survey, following levels are used for comparison: vast majority (more than 70%), majority (51%-70%), minority (30-50%), small minority (11-30%).

III. CONTEXT & BACKGROUND

Basic data about the country

Capital: Tbilisi

Population: 3,731,000 (2018)²

GDP per capita (PPP): \$4,344.631³

Freedom in the World: Partly Free (64/100)⁴

World Press Freedom Index: 28.98⁵

Number of CSOs: 24,042

Overall situation and state of civil society

The socio-political situation in Georgia is quite unstable, as the country progresses through different stages of development. The years 2017 and 2018 were shaped by elections, mass protests and constitutional and local self-government reforms. Georgian civil society organizations, individually and in coalitions, were actively engaged in policy dialogues and national discussions about the most critical issues⁶.

Georgia has successfully implemented notable reforms within the framework of the Association Agreement with the European Union, and has confirmed its strong commitment toward political and economic integration with the EU. In March 2017, the EU granted Georgia a visa-free regime, which allows citizens of Georgia to enter the Schengen area without obtaining a visa. The public's general attitude toward the EU is positive; however the level trust in the EU has fluctuated throughout the years. According to the Caucasus Barometer⁷, trust dropped from 42% to 27% between 2010 and 2015, but increased to 33% by the year 2017.

In 2017 the Georgian Dream ruling party won a sizeable majority in the municipal elections. Elections were peaceful, with no cases of vote buying or intimidation/harassment reported⁸. Nevertheless, the situation was different during the 2018 presidential elections. After two rounds of voting, Salome Zourabichvili – an independent candidate supported by the Georgian Dream Party – became the first female president in Georgia. Despite the fact that the elections themselves were largely peaceful, the pre-election phase was extremely polarized. The

2 The World Bank, <https://data.worldbank.org/country/georgia>

3 The World Bank, <https://data.worldbank.org/country/georgia>

4 Freedomhouse, <https://freedomhouse.org/report/freedom-world/freedom-world-2018>

5 World Press Freedom Index, <https://rsf.org/en/ranking>

6 USAID Sustainability Index 2017

7 Annual survey conducted by the Caucasus Research Resource Center (CRRC)

8 USAID Sustainability Index 2017

candidates and their supporters used hate speech and negative rhetoric in their messages⁹, and observers reported cases of physical confrontation, voter intimidation and vote buying.

In the lead up to the presidential elections, Georgian CSOs were at the center of national discussions. In October 2018, 13 Georgian non-governmental organizations issued a joint statement which addressed the issues of informal rule and high-level corruption¹⁰. They further demanded that the government create an enabling environment in which human rights are respected and human rights defenders can operate freely.

In recent years, CSOs have advocated for several high-profile human rights cases. For example, in 2017 they fought against the Supreme Court's decision to return Rustavi 2, the country's largest TV station, to its former owner. Twenty-eight NGOs addressed the European Court of Human Rights with a statement objecting the ruling made by the Georgian Supreme Court¹¹. The ECHR ultimately suspended the enforcement of the Court's decision. Georgian CSOs also advocated against illegal deportation of dissident Azerbaijani journalist Afgan Mukhtarli from Tbilisi to Azerbaijan. Despite some setbacks¹², the general media landscape remains diverse and competitive, and Georgia is ranked 60th out of 180 countries in the 2019 World Press Freedom Index¹³.

Civil society organizations continue to benefit from a favorable legal environment. The registration of CSO is easy, quick and non-burdensome. The number of registered non-profit organizations grew from 21,832 in 2016 to 24,042 by 2018¹⁴. However, it is important to mention that these figures include not only civil society organizations but also churches, kindergartens, municipal organizations and other entities. Data from CSOGeorgia.org currently lists approximately 891 operational CSOs¹⁵. The significant growth is a result of the easy registration process and an overly complicated liquidation procedure. The vast majority of CSOs with strong organizational capacity are Tbilisi-based, while regional CSOs remain weak¹⁶. According to a Civil Society Institute online survey¹⁷, in 2017-2018 CSOs mainly worked in the following areas: human rights, youth, democracy and civil society and social issues. Roughly 2-3% of survey participants reported working on elections, education, local self-government, media, gender, tourism, elderly and disabled people.

Financial sustainability remains the top concern for Georgian civil society. Nearly 95% of Georgian CSOs rely on foreign donors. A recent study shows that state funding has increased over the past few years, both in terms of total amount and the number of thematic areas funded¹⁸. However, state funding still constitutes a very small proportion of CSO income. Mu-

9 Evaluation of the pre-election environment of the 2018 presidential runoff made by leading watchdog organizations in Georgia is available at: <https://www.transparency.ge/en/post/evaluation-pre-election-environment-2018-presidential-runoff>

10 Joint letter to political leaders in Georgia: <https://humanrightshouse.org/letters-of-concern/political-leaders-in-georgia-must-stop-slandering-civil-society-organisations/>

11 https://www.scribd.com/document/340989812/NGOs-Address-to-the-European-Court#from_embed

12 <https://freedomhouse.org/report/nations-transit/2018/georgia>

13 2019 World Press Freedom Index_Georgia

14 Statistical information was requested from National Agency for Public Registry (NAPR) under the Ministry of Justice

15 CSO integrated database www.csogeorgia.org

16 USAID sustainability Index 2017

17 In 2019 CSI conducted online survey of CSOs from all regions of Georgia

18 See Salamadze V, Paniashvili L, et al, 2017, State Funding mechanisms for Civil Society Organizations in Georgia

municipalities are not able to issue grants; instead, they provide program financing and subsidies to CSOs. CSOs are sometimes forced to hunt for donor funds, frequently switching their mission in order to fit their requirements. A large number of organizations remain financially dependent on a single donor. Meanwhile, smaller and newly established CSOs often struggle to comply with common donor standards and requirements for financial management. CSOs continue to advocate for improving the financial system for CSOs, but tangible results have yet to be achieved.

The relationship between CSOs and the business sector remains weak. Despite the fact that Georgian legislation incorporates important mechanisms to stimulate charity activities, CSOs receive very few donations. This is partly due to the fact that businesses may not necessarily trust CSOs. However, some CSOs also refuse to accept corporate donations, as they believe corporate interests are not compatible with their values¹⁹. Nevertheless, Georgia has made some progress and is ranked 118th out of 135 countries in the World Giving Index, and was named among 21 most improved countries of 2018²⁰.

Civil society advocacy increased notably in 2017. CSOs actively participated in national discussions and expressed critical opinions on some of the country's most challenging issues. However, the Media Development Foundation's Anti-Western Propaganda Monitoring Report for 2017 found that negative comments against non-governmental organizations tripled in 2017²¹. Attacks by public officials and hate speech against watchdog organizations had a negative impact on civil society's public image. According to the Caucasus Resource Research Centre, public trust of CSOs declined from 35% to 23% between 2008 and 2017.

There are various mechanisms for government-CSO consultations. Georgian CSOs are engaged in decision making processes through councils, working groups, and thematic coalitions. As a co-chair country in Open Government Partnership, Georgia hosted the 5th Global Summit in July 2018. Within the framework of OGP Action Plans, Georgia has implemented several notable reforms. The most important achievements include launching a new Budget Monitor portal by the State Audit Office, developing a monitoring system for public officials' asset declarations, the development of community centers, increased public awareness of the electoral process, improved cooperation between CSOs and government and increased efficiency and transparency of the public finance system. Georgian CSOs are actively engaged in OGP process. Their participation is organized through an OGP Forum, which is co-chaired by various CSOs on a rotating basis.

Volunteerism in Georgia remains underdeveloped. Nevertheless, the general perception towards volunteering has become more positive over time²². The number of people who volunteered without expecting compensation grew from 21% to 23% between 2015 and 2017²³. There is no precise information on how adopting the Law on Volunteerism in 2015 affected the development of volunteering. However, CSI's online survey shows that the majority of organizations have 1 to 5 volunteers (45%), while only 6% of respondents reporting no volun-

19 https://eeas.europa.eu/sites/eeas/files/cs_roadmap_2018-2020_-_part_i_and_ii_consolidated_final_clean.pdf

20 https://www.cafonline.org/docs/default-source/about-us-publications/caf_wgi2018_report_webnopw_2379a_261018.pdf

21 USAID Sustainability Index 2017

22 Volunteerism in Georgia between 2013-2015

23 Caucasus Barometer

teers at all. Formal civic engagement, including membership in associations and contracting with CSOs, remains very low. Only 2% of the population reported membership in any type of formal club, union, etc.

IV. KEY FINDINGS

ON ENABLING ENVIRONMENT

4.1 Freedom of association

I. EVERYONE CAN FREELY ESTABLISH, JOIN, OR PARTICIPATE IN A CSO.

The freedom of association is guaranteed for everyone. Anyone can freely set up and participate in a CSO, online and offline. There are no obstacles for enjoyment of this right.

The Constitution of Georgia guarantees the right to freedom of association²⁴. More precise regulations over civil society organizations are laid down in the Civil Code of Georgia. According to the Civil Code, there is only one legal form for operation of any kind of civil society organization – Non-entrepreneurial (Noncommercial) legal entity (hereinafter “NELE”)²⁵. NELE is able to engage into legal relationship in their own capacity: acquire rights and duties in its own name, enter into transactions, sue or be sued²⁶. NELE is allowed to perform any kind of activities that are not prohibited by the law (regardless of the charter or incorporation documents of legal persons). Legislation also considers existence of unregistered groups; they lack legal personality and are treated as unregistered unions. The NELE, as well as other legal persons, is generally allowed to pursue any kind of legal purpose, unless it is restricted by the law. They can operate both online and offline. There are no territorial limitations on the operation of NELE.

According to the Georgian legislation, the founder of NELE may be a local/foreign natural person or legal entity, as well as the municipalities and other public institutions. There is no minimum capital requirement to start this form of entity. One person is able to register a non-profit organization - there is no requirement for its founders according to the legislation. The NELEs can be established by natural and legal persons. The natural persons can be either citizen of Georgia or other country, or a person without citizenship. The natural persons shall be an adult (i.e. 18 years old) enjoying full legal capacity.

Currently, there are approximately 24,082 non-entrepreneurial (noncommercial) legal entities registered in Georgia. This huge number comprises not only CSOs, but also churches, kindergartens, state organizations and other entities. The state registry usually provides general data about registered legal entities and it is often difficult to impart information about the registered CSOs.

²⁴ Constitution of Georgia, a.11(1)

²⁵ Under term “NELE” here and further in this narrative is implied every other term describing non-profit public or civil organizations, including but not limited to: CSO, NGO, CHARITY, etc.

²⁶ Civil Code of Georgia, a.4(1)

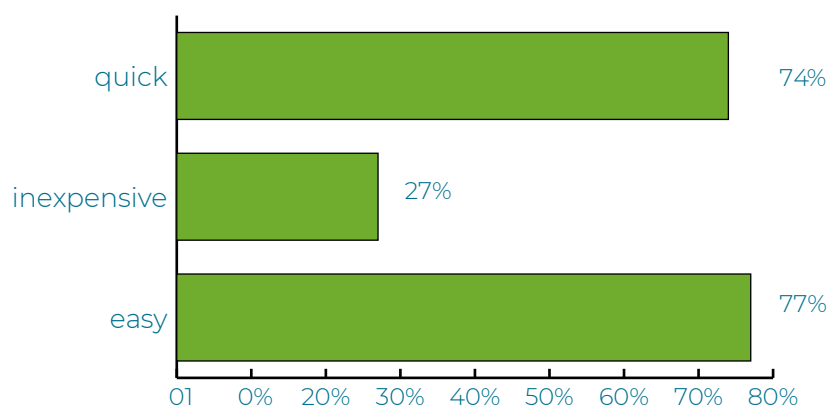
II. THE PROCEDURE TO REGISTER A CSO AS A LEGAL ENTITY IS CLEAR, SIMPLE, QUICK, AND INEXPENSIVE.

The registration procedure is quick, easy and inexpensive. There is no unnecessary bureaucracy during the formation process. The registration body is independent and transparent. None of CSOs complained about any impediments from state officials.

The registration process of non-profit organizations is easy and quick. There are no major legal or bureaucratic obstacles. Pursuant to the Law of Georgia on the Public Registry, the fee for registration of NELE and amendments to the registered data is 30 EUR, if this procedure is carried out within one business day. In case this procedure is carried out on the day of submission of application (expedited service) the service fee is 60 EUR. The registration is carried out by a public entity - The National Agency of Public Registry (hereinafter "NAPR") under the supervision of the Ministry of Justice. NAPR makes a decision on registration or refusal to register. The law also clearly describes the grounds for refusal of the registration. The reason might be the case when the objectives of the organization contradict applicable laws, recognized moral standards or constitutional and legal principles of Georgia. In case of refusal, the founders may file an appeal with the court.

Under the Civil Code of Georgia, when requesting the registration of NELE an interested person must submit to the registering authority the agreement between partners/members (which can be a charter) and the application, which must contain mandatory data established by the legislation. Application for registration must be also accompanied with: document confirming the payment of service fee, letter of reference on the location (legal address) of a not-for-profit (non-commercial) legal entity - notarized consent of the owner of location or a respective executed agreement on the use of the location.

Graph 1. How would you describe CSO registration process?



The data from survey shows, that vast majority of CSO representatives consider registration process easy and quick. Only 5% find registration process difficult. Regarding the price, most participants perceive it as neither cheap, nor expensive. Respondents were also asked to describe the registration process. Majority had a positive experience. In case of challenges, participants referred to the technical issues, lack of competence of registration body and language barrier for foreigner founders. Some respondents complained that founders do not have information about the registration process or specific knowledge on how to prepare doc-

umentation. On the other hand, the Civil Code clearly defines the Procedure and conditions for registering a CSO. Moreover, the official webpage of registration body – NAPR provides detailed information on how to register a CSO in both Georgian and English languages²⁷. Besides, several CSOs offer free consultations and assist interested individuals in registration process. Overall, the feedback was positive and no significant problems have been identified in terms of NELE registration.

III. CSOS ARE FREE TO DETERMINE THEIR OBJECTIVES AND ACTIVITIES AND OPERATE BOTH WITHIN AND OUTSIDE THE COUNTRY IN WHICH THEY WERE ESTABLISHED.

The law provides minimum regulation of the operation and governance of CSOs. CSOs can pursue any kind of activity which is not prohibited by law, including commercial activities in support of their non-profit mission.

NELE is allowed to perform any kind of activities that are not prohibited by the law. The constitution of Georgia defines activities and purposes that cannot be undertaken by the organization (whether political or civic), including: overthrowing or forcibly changing the constitutional structure of Georgia, infringing the independence and territorial integrity of the country, propagandizing war or violence, provoking national, local, religious or social animosity, the creation of armed formations. The legislation of Georgia does not restrict NELEs to engage into any kind of peaceful political activities. They can express their political opinion, organize manifestations, and support certain political parties or candidates. Yet, the “Declaration of key principles for civil society organizations” suggests that CSOs shall be transparent on whom they support and why while cooperating with other actors²⁸ including political parties.

NELEs are also allowed to pursue commercial activities. For that, Civil Code of Georgia establishes certain preconditions which shall be met, namely: 1) the profits gained out of commercial activities cannot be distributed among the founders as a dividend and shall be used only for the statutory goals of NELE. 2) Commercial activities shall not constitute the majority of the activities carried out by the organization. They shall only have an auxiliary character to support the non-profit goals of the organization.

Furthermore, legal entities as well as natural persons are free to carry out charitable activities in Georgia. According to the legislation, official registration is not mandatory in order to perform philanthropic activity. Nonetheless, it is required for the organization to obtain charity status in order to use existing tax benefits.

Nowadays in Georgia there are far more organizations that carry out charity activities than the number of formally registered entities. The charity organization’s registry²⁹ currently lists 161 charity organizations. However, this list also includes organizations which have canceled status. Hence, there are much less organizations that operate under charity status.

27 See: <https://napr.gov.ge/p/617>

28 “Declaration of key principles for civil society organizations” is an important step taken towards self-regulation of civil society in Georgia. It envisages working out of specific mechanisms to ensure better compliance with each principle in future, as well as its effective implementation in organizational activities. The declaration is an open document and any CSO can join freely. Currently it is signed by 239 CSOs. More information available at: <https://csogeorgia.org/en/declaration>

29 Website for the Revenue Service, Registry of Charitable Organizations, <http://www.rs.ge/4761>

IV. ANY SANCTIONS IMPOSED ARE CLEAR AND CONSISTENT WITH THE PRINCIPLE OF PROPORTIONALITY AND ARE THE LEAST INTRUSIVE MEANS TO ACHIEVE THE DESIRED OBJECTIVE.

The provisions on administrative offenses are clear and consistent. The sanctions imposed on CSOs are usually in compliance with the law and follow the principle of proportionality. CSO may be terminated voluntarily or by a court decision. In practice, there are no cases of involuntary termination of CSOs.

The legislation on administrative offences consists of the Code of Administrative Offences, Tax Code and other normative acts. The Code of Administrative Offences defines the actions that constitute an administrative offence, as well as administrative penalties, determines authorized bodies/officials responsible to impose the penalties and sets the procedure for their imposition. The person responsible for an administrative offence may be both natural and legal person. The law provides the list of the penalties for committing an administrative offence, including fine and warning. According to the law, no one may be sanctioned except on the basis of this law. The right to appeal and other remedies are guaranteed.

The Tax Code of Georgia has a separate chapter on “Types of Tax Violations and Responsibility”. In practice, the most common case when CSOs become subject to a penalty are the cases of violation the time limit for filing Tax Return/tax calculations. The amount of the penalty is nearly 15 EUR. Other types of tax violations include failure to present information to the tax authority, illegal tax deduction, violation of VAT requirements, etc.

The sanctions imposed to CSOs are in line with the law and follow the principle of proportionality. Important to point out, a CSO might become a subject for tax violation several times which does not lead to termination. Rather than that, there is a practice of putting a CSO in a “blacklist”, which means that they might become subject for additional inspections. In any case, administrative violations do not lead to termination.

According to the law, only the court is allowed to take decision on termination of a CSO. The governmental bodies are not entitled to terminate CSO by themselves. They can only apply to the court with that claim. The law provides that the claim on the termination of the CSO can be filed to the court, only if the CSO apparently violates the constitution of Georgia and carries out activities that are prohibited by the constitution (they are mentioned above). Therefore, voluntary termination by the government is not allowed. The termination can happen only by the judgment of the court, if mandatory precondition set out by the constitution are met. In the past two years, no cases of involuntary termination were recorded.

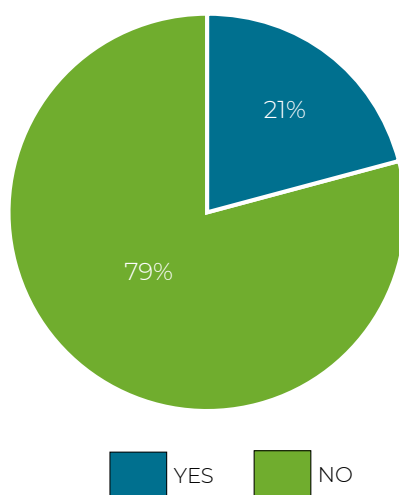
V. THE STATE DOES NOT INTERFERE IN INTERNAL AFFAIRS AND OPERATION OF CSOS.

There is no interference from the state in the operation and the internal affairs of CSOs. They are not accountable to the state unless they have a charity status. CSOs become subject to tax verification during liquidation procedure.

CSOs in Georgia do not face restrictions from the government with regard to their cooperation with international or national CSOs. They can freely carry out any kind of activities and pursue various purposes, which are not prohibited by the law. The use of communication tools, social media, internet, etc. are free and available for CSOs. They don't suffer any kind of restriction with that regard from the government.

After the CSOs governing body has taken decision on termination, they apply to the Ministry of Justice. The procedure implies involvement of tax revenue authorities which carry out tax verification and control before the CSO is terminated. According to the law, the maximum time for termination since the registration of the termination application is 4 months. Additionally, upon the request of the tax authorities this time can be prolonged for one month. Due to the lengthy and complicated procedure, CSOs frequently prefer to avoid it, which results in thousands of dysfunctional CSOs. As for the termination of CSOs by the state authorities, this is strictly regulated by the law.

Graph 2. Do you experience any practical obstacles imposed by the state in the operation of your CSO?



A big majority (79%) of survey participants have not experienced any practical obstacles imposed by the state in the operation of their CSO. Despite the fact that, CSOs raised various concerns, none of the examples were relevant to the direct interference from the state in the operation of the CSO.

CSOs in general are not required to provide report to the state, unless they obtain Charity Status. Due to the extended benefits, charity organizations have increased accountability requirements (similar to PBOs in other countries³⁰). They are obliged to provide narrative and financial reports to the Tax Authority according to Article 32 of the Tax Code of Georgia. Other than that, CSOs without charity status do not have to provide any kind of report to the state unless they receive state funding and have reporting requirements linked to the specific projects.

SPECIFIC RECOMMENDATIONS UNDER AREA 1:

- Improving statistical information to ensure there is precise information about registered and active CSOs in order to differentiate them from other non-profit entities
- Simplifying the CSO liquidation procedure.

³⁰ Public Benefit Organization is an organization which serves the public good. Several European countries have adopted such status in the law.

4.2 Equal treatment

I. THE STATE TREATS ALL CSOS EQUITABLY WITH BUSINESS ENTITIES.

Setting up a CSO or a business is very easy, while the liquidation procedure is overly-complicated for both entities. CSOs do not face more burdensome requirements in terms of operation. However, in practice the state often applies preferential treatment towards the business sector.

The Georgian legislation stipulates two basic categories of legal persons: non-entrepreneurial (non-commercial) legal entity and commercial legal entity. While they differ in their purpose, they have many commonalities - they are both legal persons, established for a specific purpose, with their own capital and rights and obligations.

As mentioned previously, the Civil Code of Georgia is a core basis for establishment, registration and operation of NELE. With respect to commercial entities, there is a separate Law on Entrepreneurs which regulates the legal forms of the subjects of commercial activities³¹. The Georgian legislation, however, does not provide precise definition of non-commercial activities regulating only its legal and organizational aspects, while commercial activity is directly defined as a “legitimate and repeated activity carried out independently and in an organized manner to gain profit”³².

Registering a commercial entity in Georgia is a simple and easy procedure, similar to setting up NELE. On the other hand, the liquidation procedure is very complicated for both businesses and NELEs.

It is important to point out as a good practice, that NAPR offers electronic business registry.³³ The registry also incorporates non-entrepreneurial legal entities. Through an electronic database, interested person may easily search for a legal entity, prepare extract, correct registered data etc.

In the administrative and operation aspects, CSOs do not face more burdensome requirements as compared to commercial entities. For example, both entities can compete in public procurement on equal basis. The state procurement regulations are provided in the law of Georgia on State Procurement. The law sets legal, organizational and economic principles for conducting state procurement. There are no specific requirements which create burdens or exclude CSO participation. CSOs do not have to undergo any kind of additional procedure in order to participate in the procurement. They often participate in the procurement if they meet the terms and conditions of the tender documentation. This mechanism is commonly used on Municipal level to provide funding to CSOs.

The majority of survey participants do not have information about the state’s attitude towards business and CSO sector. They either do not have relevant experience or are not informed enough to give the answer. On the other hand, focus group meeting participants noted that state officials do apply preferential treatment toward the business sector. This is expressed in

31 LAW OF GEORGIA ON ENTREPRENEURS a. 1(1)

32 LAW OF GEORGIA ON ENTREPRENEURS a. 1(2)

33 <https://napr.gov.ge/pol>

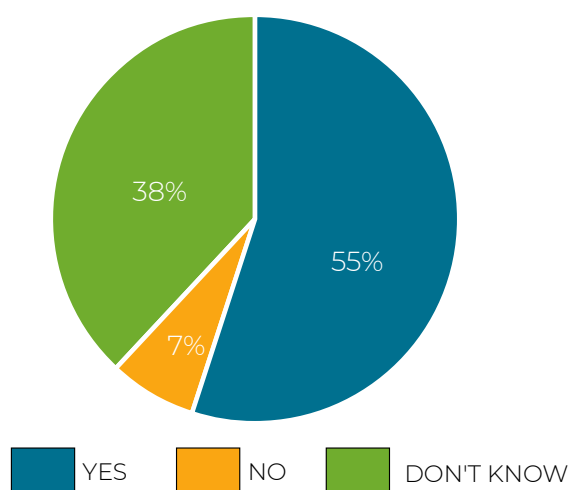
different ways and is mostly visible in their attitude towards watchdog organizations. Focus group participants have noted that state representatives do not hesitate to criticize CSOs and barely see them as a partner, while having more liberal approach towards business sector. One of our interviewees noted that nowadays many politicians come from business sector and are not familiar with activism, civil society, human rights and related fields. Therefore, their values and standards are different.

II. THE STATE TREATS ALL CSOS EQUALLY WITH REGARD TO THEIR ESTABLISHMENT, REGISTRATION, AND ACTIVITIES.

Legal regulations are the same for all CSOs. However, the attitude of state officials toward specific CSOs is not favorable. This especially applies to the treatment of watchdog organizations.

Regardless of the amount of income, establishment or activities, all NELEs are regulated under the same laws. The regulation is clear and predictable enough as well.

Graph 3. In your experience, do state bodies apply preferential treatment towards CSOs compared to others (e.g. those that are critical)?



The situation regarding equal treatment of CSOs is drastically different in the practice. The majority of survey respondents (55%) believe that the state bodies show preferential attitude toward certain CSOs in comparison with the others. Several respondents noted that the state is very harsh toward the CSOs that are criticizing the government. This conformation leads to political tension; however, the state's negative attitude is not reflected in applying stricter regulations or in additional demands toward specific CSOs.

During interviews was noted that the attitude towards CSOs in Georgia depends on their type of activities (watchdog organization, service provider or think-tank). The state in particular fights the most influential CSOs that are monitoring democratic reforms, elections, etc.

SPECIFIC RECOMMENDATIONS UNDER AREA 2:

- The liquidation procedure shall be simplified for both CSOs and businesses;
- The state shall acknowledge the role of watchdog organizations by recognizing them as partners, engaging in fruitful discussions and considering their recommendations;
- The state shall avoid preferential treatment towards some organizations and put more effort in support of the third sector.

4.3 Access to funding

I. CSOS ARE FREE TO SEEK, RECEIVE, AND USE FINANCIAL AND MATERIAL RESOURCES FOR THE PURSUIT OF THEIR OBJECTIVES.

Legislation enables CSOs to obtain funding from various sources. Over the years, several amendments were made to the Tax legislation which created favorable conditions for CSOs to receive funding and donations. Nevertheless, international donors remain the main source of income. CSOs often hesitate to apply to state funding which is partially caused by ineffective state funding system. Funding from businesses and individuals is very limited.

CSOs in Georgia are free to seek and receive funding from various sources, including individuals, businesses, international organizations, and inter-governmental organizations, as well as local, national, and foreign governments. CSOs do not have reporting requirements to the state. The only case when organization is obliged to provide report is when organization has a Charity status or receives state funding. Moreover, CSOs are also allowed to carry out any activity, which is not prohibited by the law, including supplementary economic activities in order to support their non-profit, mission-related goals.

In the past, significant amendments were made to the Tax Code of Georgia, which established very favorable conditions for CSOs to receive funding from various sources. More specifically, the following positive changes were achieved:

- Amendment on the taxation of dividends received by CSOs – As a result of long-term advocacy, the Parliament of Georgia has adopted the bill of amendments to the Tax Code of Georgia, which provided tax exemptions to NELEs on received dividends. Before the adoption of mentioned amendments, dividends received by NELEs were taxed at the 15% rate of profit tax, whereas the dividends received by the business entities were not taxed at all. Throughout the years, the NELE was placed under better regime and tax on dividends decreased to 5% and then to 3%. Since 2014, the discriminatory approach has been eliminated completely and dividends received by NELEs are no longer subject of taxation.
- Amendments on donations establishing tax benefits for charity organizations – The Tax Code of Georgia includes important mechanism that stimulates charitable donations. Namely, the amount donated by commercial entity to a charitable organization is deducted from the gross income. The law also specifies that deducted

amount shall not exceed 10% of the amount remaining after the deductions from the gross income. Since 2013, businesses can also deduct the market value of in kind contributions towards the charity organizations, such as free service provided by businesses as well as property (except the real property)³⁴.

Despite the various opportunities, the amount of funding provided to CSOs is very limited. Until today, international donors are the main source of income. The data on practice shows that CSOs are forced to hunt for donor funds, frequently switching the organization's mission in order to fit their requirements. What's more, it is a common trend that CSOs have developed lasting relationships with their donors. As a result, a great number of organizations remain financially dependent on a single donor. Meanwhile, smaller and newly established CSOs often struggle complying with common donor standards and requirements for financial management. So far the cooperation with businesses remains at large an unused source of funding among the majority of Georgian CSOs. Businesses hardly show interest to cooperate with CSOs. Individual giving is also limited. This is partially due to the underdeveloped philanthropy culture.

The recent study on state funding mechanisms in Georgia³⁵ has shown that there are no clear or unified rules on receiving, using and reporting funding from the state to CSOs. The recipients usually provide both narrative and financial report directly to the state institutions from which they receive funding. Depending on whether it is a ministry, legal entity of public law (LEPL) or municipality they have their own rules and standards. Ministries issue grants based on their goal of their state budget allotment and within limits of their legally determined management³⁶. For example, the regulation on reporting requirements set by Ministry of Justice is considered as a good practice. According to the decree №160 issued by the Minister of Justice in 2011, is determined basic rules for reporting. The recipients of state grants have to provide both narrative and financial report as agreed in the grant contract. Besides, the Ministry can ask for financial and program report any time and recipient is obliged to provide relevant information. Furthermore, the ministry may require any relevant information, documents, explanation that is relevant to the project without interfering in CSOs activities. The Ministry of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees of Georgia Rule has also set basic rules and standards for issuing funding. The procedure identifies general rules, such as procedures necessary for concluding the grant contract, terms and conditions of grant spending and minimal rules for monitoring. Some grant issuing LEPLs have also in place regulations for reporting. For example, Central Election Commission (CEC) has also adopted regulations for reporting. Specifically, Resolution № 7/2012 has a separate chapter on monitoring which sets basic rules for reporting. Monitoring for program and financial reporting is carried out by a special monitoring group. The Resolution also defines deadlines and list of documents for narrative and financial reporting. Moreover, the National Center for Teacher Professional Development under the Ministry of Education has in place regulations about grant competition administration, submission, review and concluding grant contract. However, these regulations are very general. For example, the director of the center establishes the commission which evaluates the reports, while the rules

34 Tax Code of Georgia a.117

35 http://civilin.org/pdf/State_Funding_Mechanisms_for_CSOs_in_Georgia.pdf

36 http://civilin.org/pdf/State_funding_Reform_Policy_Eng.pdf

on commission's work are not determined. The detailed monitoring forms and procedures are also not specified³⁷.

The majority of survey respondents have not experienced problems from the state in receiving and using public or private funding through different mechanisms in the past two years. Nevertheless, the focus group meeting participants noted that sometimes state reporting requirements are stricter in comparison with the international donor requirements. This especially applies to the short-term projects. Due to the absence of unified rules and standards, in certain cases state authorities use their discretion to require additional information which is time-consuming and creates unreasonable bureaucracy.

II.THERE IS NO DISTINCTION IN THE TREATMENT OF FINANCIAL AND MATERIAL RESOURCES FROM FOREIGN AND INTERNATIONAL SOURCES COMPARED TO DOMESTIC ONES.

The contributions made by foreign and international entities are treated similarly to the domestic ones. CSOs are often subject of criticism and stigmatization based on their sources of income. They are accused for following international donor requirements only without considering outcome. This is also derived from the low accountability and transparency of the third sector.

There are no restrictions for CSOs to receive foreign funding or in-kind support. According to the tax code, donations, membership fees and grants received by CSOs are exempt from the profit tax. The same regulation applies in cases when the donations, membership fees and grants are received from international sources. Moreover, international and national grants are completely exempt from VAT as well. Whenever cross-border contributions are made, no approval is required from the authorities. Only in case when the NELE signs an international grant contract, parties shall send the appropriate notice to the revenue service, which later, based on the contract, publishes the list of the grant project which are exempt from VAT.

There are no significant impediments for CSOs to obtain funding from abroad. Cross-border charitable donations can be received without additional cost. Similar tax incentives can be obtained for international charitable donations as for domestic donations. The process to receive charitable donations from abroad is clear and consistent, requiring a reasonable amount of resources and time. A wide range of activities can be supported through cross-border contributions. In practice, many national CSOs get funded through international grants and donations as well. They enjoy preferential tax administration without any significant impediments.

The collected data on practice shows that CSOs often become questioned about their financial income. Depending on their source of funding they might become subject of stigmatization and hate speech. For example, in case they receive funding from foreign donors, they are accused of following donor requirement only and spending money without valuable purposes. The stereotype that CSOs are "money eaters" is still circulating. This is also partly due to the low accountability and transparency of CSOs. The Georgian third sector has so far failed to connect more closely with the population. Nevertheless, there are a number of initiatives which aim to overcome this challenge. A good example is a "Declaration of key principles for civil

³⁷ Research on State Funding mechanisms in Georgia available at: http://civilin.org/pdf/State_Funding_Mechanisms_for_CSOs_in_Georgia_GEO.pdf

society organizations” which aims to support CSOs to follow internationally acknowledged accountability and transparency principles and establish effective cooperation with important stakeholders. This will help to increase the third sector’s public image toward members, supporters, donors, society and as a result will improve their operation³⁸.

SPECIFIC RECOMMENDATIONS UNDER AREA 3:

- Improving state funding system by establishing unified rules and standards on receiving, using and reporting state funding by CSOs;
- Eliminating stigmatization and attacks on CSOs by the state, media and others.

4.4 Freedom of peaceful assembly

I. EVERYONE CAN FREELY ENJOY THE RIGHT TO FREEDOM OF PEACEFUL ASSEMBLY BY ORGANIZING AND PARTICIPATING IN ASSEMBLIES.

Freedom of assembly is guaranteed by law. The restriction of this right may occur only in narrowly defined cases. While organizing and participation in assembly is easy, Georgian legislation imposes sentencing procedures for relatively minor misconduct and individuals are often restricted to exercise the right to peaceful assembly without proper justification. Despite the legal guarantees, LGBTQI activists face significant problems while enjoying this right.

Freedom of assembly is guaranteed by the Constitution of Georgia, international agreements, Law of Georgia on Assemblies and Demonstrations and other normative acts. According to the Constitution of Georgia everyone has the right to assemble publicly without prior permission³⁹. The law of Georgia on Assembly and Manifestations was adopted in 1997. The law was revised several times. Currently, the law is generally in line with international standards and sets the main legal framework for organizing and participating in the assembly. It is essential that an assembly has a peaceful nature, otherwise it is no longer protected by the local and international norms.

The freedom of peaceful assembly is not an absolute right and can be limited. The State Authorities may disperse an assembly in case it assumes an unlawful character⁴⁰. The restriction of this right may occur only if it is prescribed by the law, addressed to protect constitutional rights, necessary for a democratic society and non-discriminative. The law also introduces the “proportionality of a restriction” which means that the restriction shall be the most effective and the least restrictive for the achievement of the aim⁴¹. Persons that are enlisted in the Defense Forces or bodies responsible for state and public security are not entitled to this right⁴².

There are no regulations regarding spontaneous or counter-assemblies. However, the fact

38 <https://csogeorgia.org/storage/app/uploads/public/5cf/7c9/989/5cf7c9989a4af782332134.pdf>

39 Constitution of Georgia, a.21(1)

40 Constitution of Georgia, a.21(3)

41 Law of Georgia on Assemblies and Demonstrations a.2(3)

42 Constitution of Georgia, a.21

that assemblies do not require prior notification (except in cases when an assembly is held on traffic roadway or hinders transport movement when notification is required) can be understood as a right to spontaneous assemblies⁴³. Spontaneous and counter-assemblies may also be restricted in case they have unlawful character.

Graph 4. Is organising and participating in a peaceful assembly easy in Georgia?



Despite the guarantees to the right of peaceful assembly, the exercise of this right is often accompanied by certain difficulties. During recent years, several cases have been recorded when individuals faced challenges while enjoying this right.

Case 1. The “Bassiani” protest

In May 2018, massive youth protest erupted in response to the raid on two popular nightclubs located in the capital - Tbilisi. The police entered nightclubs with the claim of drug selling cases. According to the MI Statement, eight suspended drug traffickers were arrested¹. In the aftermath of the raid, more people were detained including While Noise Movement representative Beka Tsikarishvili and the leader of Girchi party Zurab Japaridze. This led to a massive youth protest in front of the Parliament building. In the meantime, far-right activists started a counter-demonstration. Both sides stood their ground until the Minister of Internal Affairs Giorgi Gakharia apologized publicly for using excessive force during club raids². The protests were eventually suspended; however, the drug policy liberalization became a popular issue.

The Code of Administrative Offences is a Soviet inheritance and requires fundamental revision. The Code retains a strong mechanism to unjustifiably intervene into the right to peaceful assembly and expression. The Code of Administrative Offences is often used by the police to detain individuals from participation and to hold them for administrative imprisonment. The

43 FoA in Georgia ECNL: <http://www.icnl.org/research/resources/assembly/FoA%20in%20Georgia.pdf>

administrative imprisonment is a heavy penalty which requires safeguarding guarantees, while the Code of Administrative Offences does not offer such guarantees. Hence, this penalty by its nature is subject of the criminal justice. In most cases the participants are detained based on Article 166 (Petty hooliganism), 173 (non-compliance with a lawful order of law enforcement officer) and other Articles of Code of Administrative Offences. According to the Supreme Court of Georgia, during 2017, Georgian courts processed 29,350 cases of administrative offences, imposing various forms of administrative liability on 17,897 individuals⁴⁴. Despite years of discussions and incorporating the reform in various Government Actions Plans, the state has not yet initiated a new Code of Administrative Offences.

The enjoyment of the right of peaceful assembly is a huge problem for Georgian LGBTQI activists. Due to the negative experience⁴⁵, for several years queer activists declined to participate in large-scale annual assembly organized on 17 May for The International Day Against Homophobia, Transphobia and Biphobia.

II. THE STATE FACILITATES AND PROTECTS PEACEFUL ASSEMBLIES.

Georgian legislation does not require prior authorization to hold an assembly. Notification to the local self-government is required only in a specific case. The notification procedure is simple, easy and free of charge. Any refusal can be appealed to the court. Social media is actively used to plan and organize assemblies without any impediments from the state.

The state has several positive and negative obligations to protect and facilitate a peaceful assembly. The state shall respect national laws and international standard and ensure that restriction of this right serves to the fulfillment of values protected by the Constitution. According to the international standards, it is important that the state uses the dialogues and negotiations in order to avoid dispersal of an assembly⁴⁶. The decision on dispersal shall not occur unless the state has taken all measures to facilitate and protect the assembly from the harm and violence. When the decision is made to disperse an assembly, law enforcement must comply with the requirements set by law and follow international standards. This also means that the organizers, as well as participants, shall be informed properly and given reasonable time to disperse voluntarily.

In general, prior notification is not required to hold an assembly. Exceptionally, the law considers the necessity of submitting advance notice to the local self-government if an assembly is held on traffic roadway or hinders transport movement. To submit the notice is free of charge. More specific regulations are as follows:

- A person shall submit an appropriate notice for organizing and holding an assembly or demonstration to an executive body of a local self-government, according to the venue for the assembly or demonstration;

⁴⁴ http://coalition.ge/index.php?article_id=187&clang=1

⁴⁵ On May 17, 2015 Georgian non-governmental organization Identoba, which promotes and protects LGBT rights in Georgia, organized a peaceful march in the center of the capital. They informed local authorities and police about the upcoming event and requested protection from the possible violence. As a result, participants became victim of ill-treatment from the police and were attacked verbally and physically by the counter-demonstrators which ended up with disruption of their demonstration.

⁴⁶ OSCE/ODIHR Guidelines on Freedom of Peaceful Assembly, §§ 165-166, <https://www.osce.org/odihr/73405?download=true>.

- The notice of organizing and holding assembly shall be submitted not later than 5 days prior to the event;
- The notice shall include form, purpose, venue and other relevant details about assembly as prescribed by the law;
- The officials of the local government body are obliged to provide organizers of an assembly with the information about laws and regulations and warn them about the possible liability if the regulations are not followed;
- The local government body is authorized to reconsider the time and place of the scheduled assembly in order to secure the social order and functioning of the state and public bodies, enterprises, organizations and transport (although there have practically been no such cases).

The persons responsible for organizing and holding assemblies or demonstrations shall be obligated to fulfill the requirements of the legislation of Georgia and the obligations under the notice.

While holding a peaceful assembly, Georgian legislation also sets territorial restrictions. For example, the law prohibits holding an assembly or a manifestation inside or within 20 meters from the entrance of the following buildings: Prosecutor's Office, police stations, penitentiary and temporary detention facilities and law enforcement bodies, railway stations, airports and ports⁴⁷. The executive body of the appropriate local self-government is obligated to maintain a balance between the freedom of assembly or demonstration and the rights of persons living, working or carrying out entrepreneurial activities in places where an assembly or demonstration is held⁴⁸.

Case 2. Khorava Str. murder case

In December 2017, two school children were brutally killed on Khorava Street, Tbilisi. Massive demonstrations started after Tbilisi City Court announced the decision on the case. The majority of the society evaluated the decision as unfair and accused the Prosecutor's Office. The political response to the murder led to the resignation of the Prosecutor General and the establishment of a parliamentary investigative commission. During the protest rally organized by Zaza Saralidze, the father of the victims, was planning to put up a tent in front of the Parliament building. The tent was supposed to be located on the pavement and therefore, it would not have caused blocking the functioning of the Parliament. Police Officers prevented this action and used physical force against protesters⁴⁹. As reported, they also prevented certain individuals in joining the protest as they were trying to bring a tent.

⁴⁷ Law of Georgia on Assemblies and Demonstrations a.9

⁴⁸ Law of Georgia on Assemblies and Demonstrations a.11²(1)

⁴⁹ TI The police interfere grossly with the constitutional right to peaceful assembly 05 October, 2018

The social media is the main source of plan and organize an assembly. Almost all demonstrations and assemblies are announced and spread via Facebook. There are no limitations to restrict this right and there are no cases when state authorities limited any interested person access to the social media. Nevertheless, a lot of fake accounts and bots are created to attack and discredit the organizers and participants. They also serve to disseminate false information. FactCheck – an innovative media project was launched in Georgia with the aim to verify fake news in social media. The organization successfully managed to provide true and evidence-based information. However due to the growing number of false news, it is not always possible.

III.THE STATE DOES NOT IMPOSE UNNECESSARY BURDENS ON ORGANIZERS OR PARTICIPANTS IN PEACEFUL ASSEMBLIES.

The ability of the state to intervene in the course of an assembly is strictly defined by law. The law does not provide additional obligations to the organizers (e.g. they are not responsible for holding maintenance of public order).

The Law of Georgia on Assemblies and Demonstrations provides regulations on rights and obligations of organizers of an assembly/demonstration. Namely, they have right to hold assembly without prior notice and appeal the decision on restriction to the court. Regarding obligations, organizers must follow the notice and hold an assembly according to the date, time and place as agreed previously. They should comply with notification and act in accordance with the law. However, assembly organizers are not responsible for the maintenance of public order.

In case an assembly gets an unlawful character⁵⁰ it shall be terminated immediately upon request of an authorized representative. If the assembly or demonstration is not terminated, law enforcement bodies shall take measures under international law to disperse the assembly. Within 15 minutes after being warned by an authorized representative the organizer shall be obliged to call on the participants to take on all measures to eliminate violations⁵¹. In case the road is intentionally blocked organizer, within 15 minutes, must warn the participants and use every rational action in order to unblock the transport movement. If failing to do so, the organizers will be charged according to the Georgian legislation⁵². The decision to disperse an assembly or demonstration may be appealed in court, which within three working days shall consider the legitimacy of the division in each instance, according to the procedures given in the legislation of Georgia⁵³.

IV.LAW ENFORCEMENT SUPPORTS PEACEFUL ASSEMBLIES AND IS ACCOUNTABLE FOR THE ACTIONS OF ITS REPRESENTATIVES.

The law obliges law enforcement to respect human rights, follow international standards and national laws when using force. While regulations are in place, police failed many times to respect the law. The most recent events are clear example

50 During the assembly or demonstration it shall be prohibited to call for the overthrow or change of the constitutional order of Georgia by force, for the encroachment of independence and territorial integrity of the country (Law of Georgia on Assemblies and Demonstrations a.11(1))

51 Law of Georgia on Assemblies and Demonstrations a.13

52 Law of Georgia on Assemblies and Demonstrations a. 13

53 Law of Georgia on Assemblies and Demonstrations a.13(7)

of disproportionate and illegitimate use of force leading to massive violation of human rights.

The state authorities shall respect human rights and follow international standards as well as national laws when using force for dispersal of an assembly. With respect to the international standards, the use of force is allowed only in case there are solid reasons prevent crime and maintain public safety⁵⁴. Moreover, according to the OSCE/ODIHR Guidelines, the state shall adopt the means for proportional use of force, which means that law enforcement shall be equipped with non-lethal weapons. Law enforcements shall have defense means, such as helmets, clothing, etc. The main aim is to minimize the need of force against protesters⁵⁵. The police officers must be committed to the principle that the use of force must be considered as an exceptional measure, which must not be executed arbitrarily, but must be proportionate to the threat, minimizing damage and injury, and used only to the extent required to achieve a legitimate objective⁵⁶. Usually, the use of special means occurs case by case.

During recent years, in a number of cases has been recorded the failure of law enforcement bodies to uphold the fundamental right to freedom of assembly. There were several cases when police used excessive force during the protests⁵⁷.

Case 3. 20 June protest

A massive protest started at 7pm on 20 June, after Russian MP Sergei Gavrilov took chairperson's tribune at Georgian Parliament. The main demand of the protesters was the resignation of the Chairman of the Parliament of Georgia and the Minister of Internal Affairs. Eventually, the event turned violent as leaders of opposition UNM party called on the protesters to break through the Parliament. The protesters were aggressively throwing plastic bottles and other objects to the police. After the event turned violent, the police made the decision to disperse the rally. The police used a variety of special means including tear gas and rubber bullets. The confrontation between the police and part of the rally participants lasted all night.

As result, the event turned into a disaster. Hundreds of demonstrators, journalists, and observers were hospitalized. Two lost an eye entirely. Police subjected 305 individuals to an administrative arrest of which 121 were sentenced to administrative imprisonment.

Despite the violence and aggression of the protesters, the means used by the police to disperse the protest are questionable. The police have been using special means almost all night even though it clearly lost its purpose to prevent the attack on Parliament building. Hence, it

54 Amnesty International, Use of Force: Guidelines for Implementation of the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, 7 September 2015, Guideline No.7, ¶¶. 147-148.; <https://bit.ly/2xrAUBn>

55 OSCE/ODIHR, Guidelines on Freedom of Peaceful Assembly, SECOND EDITION, §172, <https://bit.ly/2yrcfhz>,

56 <https://www.osce.org/secretariat/23804?download=true>

57 <https://freedomhouse.org/report/freedom-world/2019/georgia>

turned into disproportionate and illegitimate use of force⁵⁸.

SPECIFIC RECOMMENDATIONS UNDER THE AREA 4:

- Revise fundamentally the Code of Administrative Offences to eliminate the unjustified intervention into the right to peaceful assembly and expression (e.g. to detain individuals to prevent them from participation and to hold them for administrative imprisonment without proper safeguarding guarantees).
- To conduct timely investigation of the current cases of limiting the freedom of assembly and the use of excessive force by the police;
- The police shall follow international standards and Georgian legislation during the assembly/demonstration to protect the participants and intervene only when they have appropriate ground.

4.5 Right to participation in decision-making

I. EVERYONE HAS THE RIGHT TO PARTICIPATION IN DECISION-MAKING

There are various mechanisms (e.g. legal initiative, petition, submitting opinions on draft laws, etc.) in place which ensures participation in the decision-making process. However, there are challenges in terms of effectiveness and inclusivity in law and policy making procedure. Georgia has several obligations under the OGP Action Plans which aim improvement of citizen participation on both national and local level.

There are various mechanisms in place which allow individuals and CSOs to participate in decision-making process on national and local level. To some extent participation has been institutionalized, but in certain cases it happens ad-hoc. CSOs as well as individuals can use various tools to participate which are as follows: submit legislative proposal, access to sessions in the Parliament, the right to speak at committee sessions, petition mechanism and other. Moreover, they can engage in public consultations, prepare recommendations and raise initiatives on the local level.

The normative acts adopted by the state agencies, as well international agreements, court decisions are regularly published on the legislative herald www.Matsne.gov.ge⁵⁹. The Georgian government is obliged to publish strategies, action plans and policy papers online on their webpage. The draft legislative acts are usually published on the website of Parliament. CSOs, as well as other interested individuals, are entitled to leave opinions on the draft laws. However, Parliament often uses its discretion and many laws, as an exception, are adopted in a very short period of time. This makes impossible to provide feedback. Innovative technologies are actively used to make the process more accessible and effective. The implementation of modern e-governance standards is also included in OGP Action plan for 2018-2019. .

⁵⁸ Events of 20 June: Dispersal of the Rally and Related Practices of Human Rights Violation (Initial Legal Assessment) available at: <https://emc.org.ge/en/products/20-ivnisis-movlenebi-aktsiis-dashla-da-damianis-uflebebis-darghvevis-dziritadi-praktika-pirveladi-samartlebrivi-shefaseba>

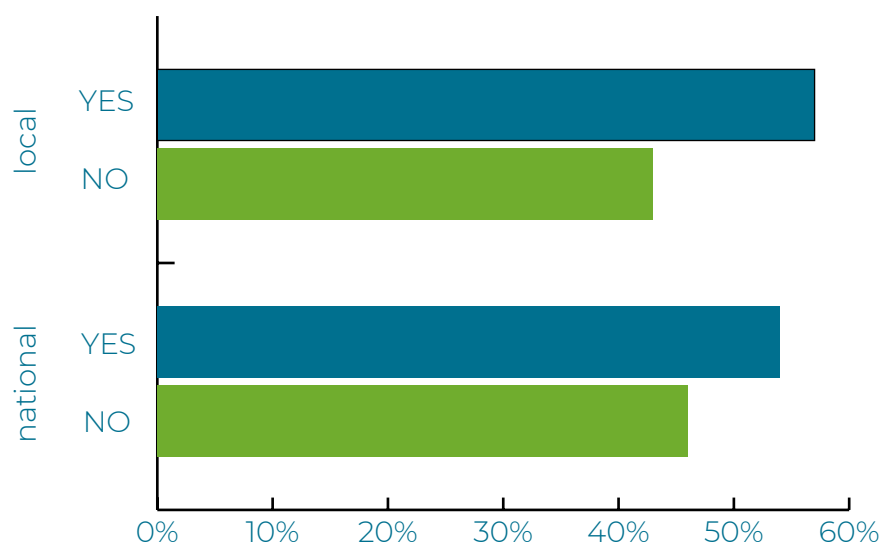
⁵⁹ A legal entity under public law within the Ministry of Justice of Georgia

One of the most important forms of participation is the petition mechanism.⁶⁰ In the framework of OGP Action Plans for 2014-2015 was launched www.ichange.ge. The portal enables the citizens to initiate e-petitions on issues that fall within the competence of the Government. However, the petition system lacks effectiveness due to several reasons. Namely, an initiative must collect at least 10,000 signatures which is unreasonable amount and barely achievable in most cases. Moreover, many people complain about the complicated registration system.

On the local level any interested person has an opportunity to participate in budget planning process. CSOs as well as individuals can engage in decision-making through making comments, preparing recommendations, participating in hearings, etc. However, due to the lack of awareness about budgetary process not many stakeholders use this mechanism. Other than that, there are no effective procedures that will stipulate public participation.

As a member of Open Governance Partnership⁶¹, Georgia has adopted several commitments for increasing citizen participation. CSOs are actively engaged in elaboration and implementation of OGP activities with different state institutions. Importantly, for the first time the Action Plan 2016-2018 contained commitments adopted by local government bodies by proposing enhancement of transparency of local council meetings, participatory budgeting and e-petition system. OGP Action plan for 2018-2019, includes a very important initiative which aims to enhance citizen participation in developing legislative acts. The administration of the Government, in cooperation with the MoJ, initiated the draft amendments to the Law on Normative Acts which envisages institutionalization of Regulatory Impact Assessment and Monitoring System (RIA). According to the draft law, the Government will have an obligation of present RIA along its initiated draft law, in cases prescribed by the law⁶². The proposed system ensures that decision making process is based on situation analysis and ex-ante assessment.

Graph 5. Have you participated in decision-making processes on the national/local levels in the past two years?



60 The petition must be signed by at least 1% of the voters registered in that municipality. The municipality is obliged to take into consideration the initiative within one month.

61 Georgia is a member of OGP since 2011. The parliament of Georgia joined OGP in 2015.

62 OGP Action plan 2018-2019, Commitment 8

In total, 54% of survey participants took part in decision making process on national level and 57% on local level. The majority of surveyors that participated in decision making process hesitated to describe the process. 39% said they were not interested in participation and the rest 61% hesitated to answer.

II.THERE ARE CLEAR, SIMPLE, AND TRANSPARENT MECHANISMS AND PROCEDURES IN PLACE THAT FACILITATE REGULAR, OPEN, AND EFFECTIVE PARTICIPATION OF CSOS IN DEVELOPING, IMPLEMENTING AND MONITORING PUBLIC POLICIES.

There are no clear rules and standards which ensure permanent and effective participation. Another concern is the low awareness among the society about existing opportunities.

There is a growing tendency of CSO and individual participation in elaboration of the draft laws, strategic documents, government decrees and other state documents. Nevertheless, there are no clear and transparent mechanisms in place for regular and effective public participation. The involvement in policy system in Georgia has no legal framework which sets out standards and procedures for engagement of citizens or CSOs in policymaking processes. There are various regulations and norms across legislations and policies that provide opportunities for different stakeholders to become engaged in policy and decision-making process⁶⁵.

On the local level, there are additional opportunities to participate. The forms of citizen participation in the exercise of local self-government include⁶⁴:

- General Assembly of a settlement;
- Petition;
- Council of civil advisors where CSOs and active citizens can be engaged but its establishment is left at the discretion of the local authority;
- Participation in the sessions of the municipality (e.g. Sakrebulo) and the sessions of its commissions;
- Public reports on the work performed (e.g. by the Gamgebeli/Mayor of the municipality or by a
- member of the municipality).

Despite various opportunities, the participation in decision making is not regular and effective. One problem is that the participation is not obligatory and remains under the discretion of the state institution, while many state institutions do not seek CSO involvement. Often, the information about the opportunities is not announced in advance and state agencies publish already elaborated documents. Several CSOs reported that they have not participated in decision-making process for the reason of not being informed. On the other hand, big challenge for participation is a low interest among citizens and CSOs in already established participatory mechanisms. Therefore, the awareness among the society should be raised about the opportunities provided by the state to participate in decision-making.

63 <https://rm.coe.int/168065755a>

64 Local self-government code a.85(4)

III. CSOS HAVE ACCESS TO INFORMATION NECESSARY FOR THEIR EFFECTIVE PARTICIPATION.

Obtaining public information is free of charge and requires a reasonable amount of time. The data shows that access to information has improved in the past years, however, challenges remain at the local level. Ministry of Justice has prepared draft freedom of information law and its adoption is in progress.

Freedom of Information is regulated by Administrative Code of Georgia. The Code provides a definition of “public information” and establishes rules on issuing such information. According to the Code, a public institution shall be obliged to issue public information, including the public information requested electronically, immediately or not later than 10 days⁶⁵. To obtain such information is free of charge. Moreover, public institutions are obliged to ensure proactive publication of public information⁶⁶. However, this requirement is not properly fulfilled on the local level. Important to note, this obligation shall not release a public institution from the obligation to duly issue the same or other public information requested. The provision of public information is free of charge on both national and local level.

Despite the fact that legal regulations on freedom of information contain norms that are in line with international standards and practices, current legislation in that regard is considered as outdated⁶⁷. Georgian civil society organizations have actively advocated for the improvement of FOI law. The adoption of FOI law is one of commitments in the framework of Association Agreement between EU and Georgia signed in 2014. Moreover, OGP Action Plan for 2014-2015 included a commitment to elaborate FOI law. The draft law ensures consolidating regulations on freedom of information and to establish enforcement mechanisms and sanctions for non-compliance. The parliament should adopt this law by the end of 2019.

The most recent data provided by Institute for Development of Freedom of Information (IDFI)⁶⁸, out of the 7728 requests sent to 289 public institutions in 2017, IDFI received 4604 complete responses, 483 incomplete responses, and 51 refusals. 946 were left without answers and in the rest of the cases, the institutions stated that they did not have the requested information or they had not conducted specific activities. According to the same statistics, 39 public institutions responded to 100% of all requests for access to public information. Among there are the following Ministries: Ministry of Environment and Natural Resources Protection of Georgia, Ministry of Corrections of Georgia, Ministry of Energy of Georgia, Ministry of Sport and Youth Affairs. The most closed public institution in 2017 was the LEPL Revenue Service⁶⁹.

65 GENERAL ADMINISTRATIVE CODE OF GEORGIA a.40(1)

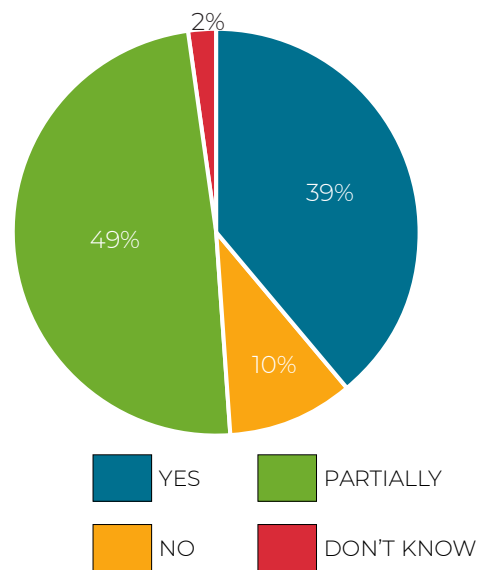
66 GENERAL ADMINISTRATIVE CODE OF GEORGIA a.28(2)

67 <https://idfi.ge/en/access-to-public-information-in-georgia-report-summarizing-2010%E2%80%932015>

68 Institute for Development of Freedom of Information (IDFI) is monitoring access to information in Georgia since 2010. In that regard, IDFI has identified main trends and challenges and contributed in development of accountability of public sector and open governance.

69 https://idfi.ge/en/2017_open_and_closed_public_institutions_in_georgia

Graph 6. When requesting public information, did responses provide the information you requested?



Access to information remains a challenge on the local level. However, the focus group meeting participants think that the situation has improved in the past few years. The local CSOs recalled occasions when interested person waited for months to receive the information. Moreover, they reported on the cases when local government institutions deliberately procrastinated to provide information. For example, the minutes from gender committee meeting under one of the local self-government has been requested. The minutes were not prepared on time. Therefore, they delayed to provide information. Several CSO representatives noted that in case the information requires analyses or processing, state institutions sometimes lack capacity to provide exactly what they requested. There are very few cases when interested person has to address their acquaintances in order to receive the public information.

IV. PARTICIPATION IN DECISION-MAKING IS DISTINCT FROM POLITICAL ACTIVITIES AND LOBBYING.

There is a separate law which regulates lobbying activities. It is not necessary to register as a lobbyist to advocate for draft laws, yet, the person with lobbyist status gets benefits (e.g. the right to speak at committee sessions, better access to information). However, the law is not very popular and there are very few people who applied for this status. The participation in decision-making process is clearly distinguished from lobbying and political activities.

Georgia adopted the **Law on Lobbying Activities (“LLA”)** in 1998. The adoption of the law was part of an effort to fight corruption and regulate the work of state officials in the country⁷⁰. The LLA is the main legal framework for lobbying activities in Georgia. There are also regulations on lobbying in other normative acts, such as Administrative Code of Georgia, Law on Normative Acts, Law of Georgia on Public Service, Rules of Procedure of the Parliament of Georgia and others. The LLA sets the rules for registration as a lobbyist and regulates the

⁷⁰ http://press.tsu.ge/data/image_db_innova/disertaciebi_samartali/gia_gogiberidze.pdf

relations that occur within the lobbying activities⁷¹. The law defines lobbying as any type of influence which is not prohibited by the law of a person registered as a lobbyist on a representative of legislative or executive body⁷². Any person may register as a lobbyist except when the person's work is incompatible with lobbying activities or the person has been convicted for a crime against the state or official standing crime⁷³. In order to register as a lobbyist, the person must conclude a mandate contract. The mandate contract is concluded according to the Civil Code of Georgia⁷⁴. A mandator can be represented as a legal entity registered in Georgia (except for the treasury enterprise or treasury organization) or as a group of citizens, but no less than 50 people⁷⁵. For registering, a person shall provide following documentation⁷⁶:

- Application and personal documents (e.g. ID card);
- Draft law which shall be subject of lobbying;
- Mandate contract;
- Criminal record.

The registration body may refuse in case applicants occupation is incompatible with lobbying activities, applicant has been convicted for a crime against the state or for the official standing crime, filed information and documentation is not in compliance with LLA law or in case he/she was deprived from the lobby status⁷⁷. The refusal must be evidence-based in a written format. The decision can be appealed with the court⁷⁸.

After registration, lobbyist is given certain benefits. For example, lobbyists can freely enter administrative building for the legislative and executive branches, may participate in discussions on draft law which is subject for lobby, on both open and closed (except for certain cases, as defined by the law) sessions, , have the right to speak at committee sessions, meet in person legislative and execute body. Moreover, the lobbyist can obtain any public information within two days⁷⁹. In terms of obligations, lobbyist is required to provide report every month, no later than 10th day of the next month⁸⁰. The monthly report shall include information about the income received by the lobbyist in the framework of mandate contract and expenses, including dates, terms and purposes. In case of failure to comply with the reporting requirements, lobbyist will be deprived of the status. Other reasons for deprivation or cancelation of the status are also listed in LLA⁸¹.

Generally, lobbying is not very popular in the country and the term "lobbying" is not often used. Advocacy is clearly distinguished from lobbying activities. CSOs, as well as other indi-

71 Law on Lobbying Activities a.1(1)

72 Law on Lobbying Activities a.2(a)

73 Law on Lobbying Activities a.4

74 Civil Code of Georgia a.709

75 Law on Lobbying Activities a.7

76 Law on Lobbying Activities a.5

77 Law on Lobbying Activities a.6(1)

78 Law on Lobbying Activities a.6(3)

79 Generally, public information is given in 10 days

80 Law on Lobbying Activities a.13

81 Law on Lobbying Activities a.8

viduals are free to advocate for draft laws without registering as lobbyists. In fact, there are very few people in practice who have applied for a lobbyist status⁸². From 2015, in total 17 applications were discussed for registration. Among them, the committee approved ten, while two people were rejected for reason of not providing relevant information and documentation as requested by the law.

SPECIFIC RECOMMENDATIONS UNDER AREA 5:

- State institutions shall respect the right of individuals to participate in decision-making process and shall engage them in the process of formation of laws and policies;
- The state shall adopt regulations to make the participation obligatory in elaboration of decrees, draft laws, strategic documents and other instrument used by the government.
- The state shall develop unified standard/rules on public consultations of draft laws and policies on national level;
- The consultations with CSOs shall happen at the earliest stage of development laws and policies;
- Local governments must publish draft strategies, policy papers and other important documents on their websites and allow for their public consultation;
- The draft Freedom of Information law shall be adopted by the Parliament;
- The state, in partnership with CSOs, shall initiate a wide campaign to increase the awareness among the general public about their rights to participate in decision-making.

4.6 Freedom of expression

I. EVERYONE HAS THE RIGHT TO FREEDOM OF OPINION AND EXPRESSION.

Freedom of expression is guaranteed and profoundly protected. Georgian legislation in that regard is considered as the most progressive in the region. The Constitutional Court of Georgia significantly contributed in setting high standard. CSOs, journalists and other individuals do not face any problems with enjoying this right.

Georgia has some of the more progressive laws on freedom of expression in the region⁸³. Article 17 of the Constitution and the Law of Georgia protects freedom of opinion and expression. With the same article, freedom of mass media is guaranteed: neither the state nor individuals have the right to monopolies in mass media or the means of dissemination of the information. Censorship is prohibited. CSOs and individuals can enjoy the freedom of expression both online and offline.

The law of Georgia on Freedom of Speech and Expression was adopted in 2004. The law rec-

82 CSI requested public information from the Procedural Issues and Rules Committee of the Parliament of Georgia

83 Freedom house report 2016 <https://freedomhouse.org/report/freedom-press/2016/georgia>

ognizes the freedom of speech and expression as eternal and supreme human value. Due to the broad content and interpretations of this right the law is an important follow-up to practical implementation of the Constitutional guarantees. More specifically, the freedom of expression includes: freedom to search, receive and spread the information, freedom of political speech and debates, editorial freedom, journalists right to protect confidentiality of their sources, academic and artistic freedom, etc.⁸⁴. Moreover, there is a separate chapter on protection of the secrets, in which the individuals who release information on wrongdoing are also protected.

The Constitutional Court of Georgia has significantly contributed in establishing high standards of freedom of expression in the country. According to the Constitutional Court of Georgia, “expression shall be balanced with the expression again, as any opinion and statement can be rejected with the contrary viewpoint”. The court also points out that the freedom of expression covers not only those opinions and expressions that are acceptable to everyone and are favorably received, but also those ideas, opinions or statements which are unacceptable to the government, part of the society, which can cause shock and public outrage⁸⁵. The Court repeatedly observed that “free society consists of free individuals who think freely, hold independent and different opinions and participate in democratic processes, which entails exchange of opinions and debates”⁸⁶. Furthermore, based on the cases of the European Court of Human Rights and Constitutional Court of Georgia the protection of freedom of speech also covers those opinions, ideas and statements which are unacceptable to the government, part of society or certain individuals. On the other hand, there are also norms which protect honor and dignity of the persons.

According to the Constitution of Georgia, everyone has the right to access internet and use it freely⁸⁷. The usage continues to grow, particularly social networks. Georgians continue to freely use social media tools to document and respond to significant political and social events. Nevertheless, unreliable and politically biased content, including disinformation and anti-Western propaganda is often spread online. Facebook remains as the most famous social network in Georgia (84.67%)⁸⁸ compared with other online platforms. The concerns about disinformation and hate speech proliferation online are growing as Georgia becomes a polygon of Anti-western propaganda, after the country declared its foreign policy orientation as pro-European. Different reports from civil society representatives also indicate the influence of Russian soft power mechanisms online to spread disinformation and hate speech against the most vulnerable groups in the country, such as ethnic and religious minorities and LG-BTQ community⁸⁹. Thus, Georgia is not an exception in terms of increasing concerns of hatred spread via online, in particular, newly created far-right and neo-Nazi movements are strengthening their narrative through online tools and mobilizing people against foreigners, LGBTQ community and other vulnerable groups. But when social crisis emerges in the coun-

84 The law of Georgia on Freedom of Speech and Expression a.3

85 The judgment of 30 September 2016 of the Constitutional Court of Georgia on the case N1/6/561,568 Georgian citizen Yuri Vazagashvili vs. the Parliament of Georgia

86 IDFI - The importance of freedom of expression in a democratic society

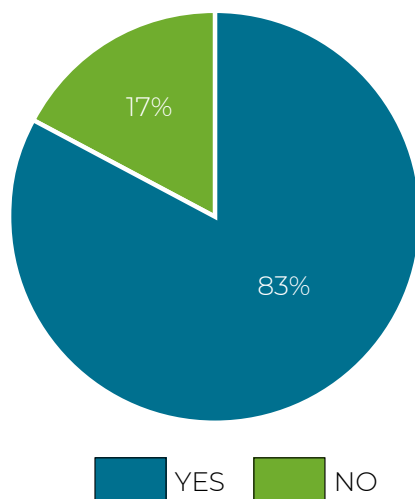
87 Constitution of Georgia a.17(4)

88 <http://gs.statcounter.com/social-media-stats/all/georgia>

89 Anti-Western Propaganda Annual Report 2017, Media Development Fund, available: <http://mdfgeorgia.ge/eng/view-library/89>

try, civil society representatives and social media activists demonstrate a strong resistance using online tools for mobilizing public at large.

Graph 7. Do you think that CSOs can freely express their opinion, regardless of whether it is critical of the government?



Vast majority of survey participants think that individuals and CSOs can freely express their opinions through any media. However, in most cases those CSOs become subject of criticism by state officials. One interviewee mentioned that state officials are often unfair in their statements. Respondent claims, that in certain cases instead of opposing on the subject state officials attack individual persons and their public image, which as a result has a negative effect on the whole sector.

II. THE STATE FACILITATES AND PROTECTS FREEDOM OF OPINION AND EXPRESSION

Despite the high standards in protection of freedom of expression, in the past years certain initiatives from state officials aimed to limit this right. These initiatives did not lead in imposing stricter laws. The media landscape remains vibrant and diverse but sometimes politicized. The close ties between leading media outlets and politicians have a negative effect on media freedom and independence.

The Constitution of Georgia and international law recognize that freedom of expression is not an absolute right and can be limited. However, limitations must be within strictly defined parameters. Restrictions should be prescribed by the law, have legitimate aim and should be necessary in a democratic society⁹⁰. Other cases include the protection of the rights of others, for the prevention of the disclosure of information recognized as confidential or for ensuring the independence and impartiality of the judiciary⁹¹.

The law on freedom of expression guarantees the right to appeal to the court to avoid and prevent violation of this right⁹². Interested person may seek different remedies such as prevent-

90 <https://www.osce.org/fom/15214?download=true>

91 Constitution of Georgia a.17(5)

92 Article 6.

ing violations from occurring, eradication of the consequences of the violation and restoring the rights. The law ensures that individuals may complain about various issues such as censorship by the state, seizure by the law enforcement of confidential journalistic materials, etc.

In accordance with the report of Reporters without borders, Georgia's media freedom index has worsened in comparison with the previous year's ranking. The survey points out that in general Georgia's media landscape is pluralistic, but very polarized. Some events represent a threat to the independence of major media outlets editorial policies. For example, a long-term legal dispute over ownership of Rustavi 2, the most popular TV station in Georgia, had a significant impact on the media environment. In 2017, ECHR temporarily suspended Supreme Court's decision - to transfer Rustavi 2 to its former owner Kibar Khalvashi, who is affiliated with the ruling GD party.⁹³ In 2019, ECHR published the final judgment and found no violations in terms of freedom of expression, nor in the part of fair trial and ownership. The TV station was transferred to the former owner⁹⁴. The Court's decision caused big concerns among CSOs, journalists and the society. A group of leading CSOs issued public statement warning about the potential interference in editorial independence of Rustavi 2⁹⁵.

Case. 4 Tightening regulatory norms of defamation

In the beginning of 2019, the government officials began to discuss the proposal of Defamation Law after the leader of Orthodox Church spoke against negative use of free speech. According to the Officials, the law aimed to fight against fake news. GD party have been accusing leading opposition TV channel Rustavi 2 for disseminating false information. Georgian President Salome Zourabishvili was the first to discuss "moral issues" and to propose tightening regulations on defamation. Consequently, president's administration announced consultations with NGOs and other important stakeholders to discuss this initiative.⁹⁶

In support of tightening regulations of defamation, the President of Georgia used as an example the Law on defamation adopted by France in 2018. However, the law in France aimed to decrease spreading fake news only during pre-election campaigns by increasing transparency standards. Despite the fact that this initiative aimed to protect elections, it triggered major criticism. Therefore, the law against fake news in France has been differently interpreted in Georgian reality and has been linked to a stricter regulation of defamation. Zurabishvili's proposal gained support among a number of key officials, however NGOs and local media advocacy groups questioned the need for a new law and expressed concerns that the proposal might put freedom of expression at risk.

Defamation was decriminalized in Georgia back in 2004. It was part of an effort to bring Georgian law in compliance with European standards and huge step towards establishing demo-

93 https://www.scribd.com/document/340989812/NGOs-Address-to-the-European-Court#from_embed

94 <http://www.tabula.ge/ge/story/152581-rustavi-2-is-saqmeze-strasburgis-sasamartlom-darghveva-ar-daadgina?fbclid=IwAR3Nh4hazZAqskvOAz9FXA5flvQdr2yWef1teOgKopns-CkxYw1WFayZE>

95 <https://transparency.ge/en/post/statement-ngos-developments-around-rustavi-2-tv>

96 <https://oc-media.org/proposed-georgian-defamation-law-puts-freedom-of-speech-at-risk/>

cratic society. Hence, the initiative about tightening norms of defamation can be assessed as a threat to the existing standard of freedom of expression.

SPECIFIC RECOMMENDATIONS UNDER AREA 6:

- The state and politicians shall avoid interference in the editorial policies of the media;
- State Officials shall respect freedom of expression and avoid initiatives that aim to limit this right (for example, the initiative which aims to tighten regulation on defamation is a clear threat towards the existing standard).
- Increase cooperation between media and CSOs in order to fight disinformation and hate speech by supporting existing resilient networks, creating counter-narrative and positive content, increasing awareness of the public.

4.7 Right to privacy

I.EVERYONE ENJOYS THE RIGHT TO PRIVACY AND DATA PROTECTION.

The right to privacy is guaranteed to everyone by national law and international standards. There is a separate law which ensures the protection of personal data.

Under the national legislation all people have right to privacy. No unlawful or arbitrary interference with this right shall occur. Nevertheless, this right may be restricted in accordance with the law in order to ensure national or public safety, to protect right of others and when the restriction is necessary for democratic society⁹⁷.

The “protection of private life” includes the protection of home, reputation, communication and personal data. The notion of “privacy” also extends to the privacy of one’s home and correspondence, which in the case of CSOs includes their working offices and related assets. Georgian constitution also protects personal space and communication. No one shall have the right to enter a place of residence or other possessions, or to conduct a search, against the will of the possessor. The entrance should be based on a court decision or without a court decision in cases of urgent necessity provided for by law⁹⁸. In case of urgent necessity, a court shall be notified no later than 24 hours after the restriction and the court shall approve the lawfulness of the restriction no later than 24 hours after the notification.

These standards also impose positive obligations on the state to protect individuals and organizations from such interference committed by third parties. This applies to information exchanged between individuals belonging to an association or between associations themselves.

The right to privacy in Georgia is protected by international agreements and national legislation. Moreover, the visa liberalization process with the EU stipulated carrying out comprehensive reforms in the field of data protection. The Law on Personal Data Protection (PDP) was adopted in 2012. The law ensures protection of human rights and freedoms, includ-

⁹⁷ Constitution of Georgia a.15(1)

⁹⁸ Constitution of Georgia a.15(2)

ing the right to privacy, in the course of personal data processing. PDP Law sets basic principles of data processing, grounds for legitimate data processing; defines the rights and obligations of Data Controllers and Data Processors and Administrative Liability for Violation of this Law. PDP law also defines Personal Data Protection Inspector's principles and scope of activities.

PDP Law considers administrative responsibility for violation of the Law. There is a separate chapter which prescribes the sanctions for particular violations such as: processing of data in the absence of legal grounds, violation of the principle of processing data, failure to comply with the requirements on data security, violation of video surveillance rules, failure to fulfill requirement of the Inspector, etc. Despite administrative violations, there is also criminal responsibility of data protection: Illegal collection, storage, usage, dissemination or disclosure of personal data causing serious damage can lead to imprisonment up to three years term.⁹⁹

II. THE STATE PROTECTS THE RIGHT TO PRIVACY OF CSOS AND ASSOCIATED INDIVIDUALS

Reporting requirements generally respect the privacy of CSOs and associated individuals. The surveillance requires a preliminary authorization issued by court. A new surveillance agency was established in 2017 under the supervision of the State Security Service. Extending surveillance mechanism with a weak and formal oversight raised huge concerns among society.

The reporting requirements for CSOs generally protect the privacy of the information about members, donors and respect the confidentiality of their personal assets.

According to the legislation, CSOs may become a subject of tax and financial audit. A tax authority may request to provide accounting document and tax related information or to submit the list of their property¹⁰⁰. As well as that, during tax audit CSOs may be requested to provide confidential information from the bank upon request of tax authority. A tax authority can request this information only on the basis of a court decision¹⁰¹. Moreover, there is a separate law on Accounting, Reporting and Auditing. The law sets the legal framework for accounting, preparing and filing financial and management reports, reports on payments to the government according to this Law, auditing (service) and enforcement in these areas. According to the law, the information received by an Auditor/Audit Firm in the course of the fulfillment of its duties shall represent confidential information¹⁰². The Auditor is obliged to protect confidential information while conducting the inspection and not to disclose confidential information in their possession without the consent of the entity, except for cases provided for in Georgian legislation.

CSO surveillance is permitted only in narrowly defined cases to fight crime, protect national security and if necessary in a democratic society. In order to carry out surveillance, it is necessary to obtain prior authorization from the court. However, in most cases to obtain such authorization is a formality. The interference to the right of the privacy of CSOs, founders, members and other affiliated persons can be appealed to the court. In past years, no cases of

99 Criminal Code a.157

100 Tax Code a.70(1)

101 Tax Code a.70(3)

102 Law on Accounting, Reporting and Auditing a.18

CSO surveillance have been reported. However, in 2017 the Parliament of Georgia passed a law to establish independent surveillance body - Operative-Technical Agency under the supervision of the State Security Service¹⁰³. The Agency is authorized to:

- Obtain information from communication channels (e.g. record telephone communication);
- Obtain information from computer systems;
- Record secret videos and audios;
- Implement strategic and individual monitoring;
- Examine the IT and telecommunication infrastructure of electronic communications company with the aim to execute its legal functions.

Many state representatives, CSOs and individuals expressed concerns that the new regulations are not in compliance with Constitutional Court's earlier ruling on state surveillance practice¹⁰⁴ and creates potential risks of the state violation to right of privacy¹⁰⁵. The former President of Georgia, Giorgi Margvelashvili has vetoed a bill¹⁰⁶, however it was overturned by the Parliament. After the reform, the coverage and the number of entities engaged in secret surveillance has increased. Moreover, the new agency can examine electronic communication companies and request them to buy relevant technical equipment which means that the Agency can interfere in the work of private entities. Moreover, the role of the State Inspector's office¹⁰⁷ has reduced. Before amendments, the Inspector was responsible to decide on initiating or rejecting telephone communication surveillance. After amendments, the Inspector no longer participates in initiating and is left to the privilege to stop telephone communication surveillance. The Constitutional Court of Georgia noted that the role of Inspector was not effective enough and it should have been expanded¹⁰⁸. While due to the new regulations, the Inspector's oversight mechanisms decreased slightly. Furthermore, private sector representatives claim that draft law was elaborated without their participation. Small and medium businesses expressed concerns that this regulation is discriminatory since they do not have capacity to comply with these standards¹⁰⁹.

103 <https://agenda.ge/en/news/2017/383>

104 In 2016, the Constitutional Court of Georgia rules that the technical access of the State Security Service to telecommunication operator networks was unconstitutional as this access allows unlimited monitoring of data collection.

105 <https://emc.org.ge/ka/products/faruli-miquradebis-maregulirebeli-akhali-kanonmdebloba-ver-uzrunvelqofs-piradi-tskhovrebi-khelsheukheblobas>

106 <https://agenda.ge/en/news/2017/513>

107 The State Inspector's Office is an independent state authority responsible for supervision of lawfulness of data processing and implements data protection legislation

108 <https://emc.org.ge/ka/products/faruli-miquradebis-maregulirebeli-akhali-kanonmdebloba-ver-uzrunvelqofs-piradi-tskhovrebi-khelsheukheblobas>

109 https://idfi.ge/en/regulating_secret_surveillance_georgia_january_august_2017

SPECIFIC RECOMMENDATIONS UNDER AREA 7:

- The number of state entities engaged in surveillance should not increase;
- The State Surveillance Agency shall be provided with sufficient guarantees of its independence;
- The Agency shall not use its authority to interfere with the activities of CSOs and private companies without proper ground.

4.8 State duty to protect

I. THE STATE PROTECTS CSOS AND INDIVIDUALS ASSOCIATED WITH CSOS FROM INTERFERENCE AND ATTACKS

The state has a positive obligation to protect CSOs and they enjoy the right to fair trial in any type of lawsuits brought by them or against them. However, in practice there are some cases when state failed to fulfill its positive obligations and to protect CSOs and individuals from attacks. This especially applies to LBTQI community. Moreover, the tension between the CSOs and the government increased over the years after several high-level officials attacked watchdog organizations and their representatives.

CSOs and their rights are protected by constitution, international agreements and other national laws. After registering as a non-profit legal entity, organizations are able to engage into legal relationship in their own capacity, conclude contracts, etc. CSOs, their founders and members have effective means of legal defense for all decisions affecting their fundamental rights. The founders and members of CSOs enjoy the right to the fair trial in any type of lawsuits brought by them or against them. They may also file an administrative complaint in which case the dispute will be solved in the form of administrative proceeding. In any case, CSOs can seek restitution of the limited right or get compensation of the damage. Furthermore, CSOs are able to prevent upcoming violation with a preventive defense. They can file a complaint about any provision they believe can become threat to their operation.

Important to mention, the state in certain cases fails to ensure that CSOs and associated individuals are fully protected. This is the case of LGBTIQ community, who require special protection from attacks and interference by third parties.

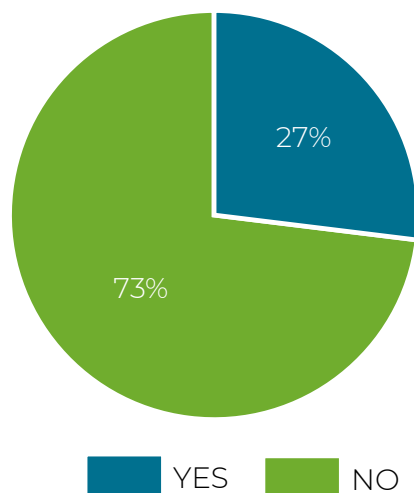
Case 5. Tbilisi Pride

Georgian queer activists planned first ever Pride to take place in June 2019, Tbilisi. The announcement caused a huge debate and led to polarization the society. The radical far-right groups (such as Georgian March and the Alliance of Patriots Party) started anti-pride campaign. These ultraconservative groups, with priests among them, several times attempted to disrupt Tbilisi Pride. The hate groups attacked the office of

the organizers which resulted in evacuating of the office¹¹⁰. Furthermore, two organizers claimed to receive death threats¹¹¹. Georgia's Interior Ministry has announced that it is 'impossible' to organize Tbilisi Pride 'due to safety risks'. Queer activists held an impromptu queer pride march in Tbilisi amidst threats from homophobic groups¹¹².

On the other hand, in 2014, Georgian Parliament passed the Law of Georgia on the Elimination of All Forms of Discrimination. The Law aims to eliminate any type of discrimination to ensure equal enjoyment of the right and provides protection against discrimination on different grounds, including sexual orientation and gender identity¹¹³. A victim of discrimination, according to the legislation, will have the right to seek remedies in court that, among others, may also include pecuniary and non-pecuniary compensation. It is also important to raise awareness among the society on discrimination-related issues.

Graph 8. Are you aware of instances of harrasment or attack on CSOs and their members in the past two years?



Majority of survey participants are not aware of instances of harassment or attacks on CSOs. However, in the past years there were many cases of both harassment and attacks on LGBTQ organizations and their members. Participants also mentioned increased number of negative statements towards watchdog organizations. The statements mostly come from high officials including Minister of Justice¹¹⁴, former speaker of the Parliament¹¹⁵, etc.

Over the last two years, the tension between the government and CSOs increased, especially after the negative rhetoric towards third sector from the most influential politicians.

110 <https://www.gaystarnews.com/article/tbilisi-pride-offices-evacuated-after-death-threats-and-counter-protests/#gs.1nu93s>

111 <http://georgiatoday.ge/news/16091/Tbilisi-Pride%3A-%E2%80%9C%E2%80%99m-Worried-People-Might-Die%E2%80%9D->

112 <https://oc-media.org/ultraconservative-and-anti-putin-protesters-face-off-as-queer-activists-hold-impromptu-pride/>

113 The Law of Georgia On the Elimination of All Forms of Discrimination, Article 1.

114 https://idfi.ge/en/attack_on_csos_from_the_government_undermines_endangers

115 <http://georgiatoday.ge/news/9886/Kobakhidze-Slams-Freedom-House-Report-and-%E2%80%9CPseudo-Liberal%E2%80%9D-NGOs>

The leader of ruling GD party and former Georgian Prime Minister Bidzina Ivanishvili accused Eka Gigauri, the head of anti-corruption group Transparency International Georgia, for being politicized and satellite of the opposition party - United National Movement. The allegations against Gigauri was also brought up by the Minister of Justice, Tea Tsulukiani at the Copenhagen International Anti-Corruption Conference. In response, 12 Georgian NGOs have released a statement against continuous Government attacks toward the third sector¹¹⁶. This was not the only case when the state officials attacked CSOs and their representatives. The former Parliament speaker Irakli Kobakhidze expressed his negative attitude toward the sector several times. For example, he slammed Freedom House report for lowering Georgia's overall democracy score and claimed that the NGOs that are the sources of this report "lack competence and are biased against the authorities."¹¹⁷ Furthermore, Social network Facebook has become the major platform for attacks and harassment against CSOs. One of our respondents, who works on awareness raising and spreading European values, was attacked on FB page by neo-Nazi groups. Respondent claims, that they spammed their page with aggressive comments. One of our interviewee and representative of leading human rights organization also expressed her concerns about the most recent attacks on their social media page. As practice shows, similar cases have been recorded when organized groups use hate speech and negative rhetoric toward CSOs aiming to deteriorate their public image.

II. MEASURES USED TO FIGHT EXTREMISM, TERRORISM, MONEY LAUNDERING OR CORRUPTION ARE TARGETED AND PROPORTIONATE, IN LINE WITH THE RISK-BASED APPROACH, AND RESPECT HUMAN RIGHTS STANDARDS ON ASSOCIATION, ASSEMBLY, AND EXPRESSION.

The current legislation on fighting terrorism, corruption and money laundering does not aim to limit CSO rights. CSOs do not face significant obstacles to carry out financial transactions. The periodical monitoring by Moneyval which serves to analyze situation on anti-money laundering and counter terrorist financing measures in the country lacks CSO participation.

Fighting terrorism, money laundering and corruption is a priority of Government of Georgia. The country is actively engaged in counterterrorism, anti-money laundering and anti-corruption issues at international and regional levels.

Georgia is a member of the Council of Europe's Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism, a Financial Action Task Force (FATF)¹¹⁸. Georgia's legal framework on AML/CFT remains largely in compliance with international standards, in particular with updated FATF recommendations¹¹⁹. In accordance with the recommendations of the FATF Georgia developed a Strategy for Combating Money Laundering and Terrorism Financing (AML/CFT Strategy) in 2014-2017. The objective of the strategy was to establish the effective national framework for combating money laundering and terrorism financing. It contributed in prevention, early detection and reduction of money

116 <http://georgiatoday.ge/news/12888/NGOs%3A-Officials%27-Attack-on-Civil-Sector-Harms-Georgian-Democracy>

117 <http://georgiatoday.ge/news/9886/Kobakhidze-Slams-Freedom-House-Report-and-%E2%80%9CPseudo-Liberal%E2%80%9D-NGOs>

118 FATF is the global standard setter for anti-money laundering and countering financing. FATF assumes if countries effectively implement their standards, financial systems and the broader economy are protected from threats of money laundering and financing of terrorism. Over 190 countries are implementing FATF's standards.

119 <https://www.refworld.org/docid/5bcf1fa64.html>

laundering and terrorism financing crime. Among other important priorities, the Action Plan considered improvement of legislation governing activities of non-profit organizations.

In the framework of FATF, Georgia is evaluated by Moneyval¹²⁰. The monitoring serves to analyze the situation on major anti-money laundering and counter terrorist financing measures (AML/CFT) in the country. The last evaluation was held in 2012¹²¹. Based on the findings, the overall regime of AML/CFT has significantly improved since the previous evaluation in 2007. With respect to non-profits, the data has shown that the sector is vulnerable to fight AML/CFT issues. The report also reviewed the effectiveness of NAPR which provides publicly available information about non-profits since 2010. At that time, the registry was still under construction, therefore some information was not as reliable as now. The recommendations include conducting a review of the adequacy of laws related to the non-profit organizations. Moreover, the authorities were recommended to reassess sector's vulnerabilities and raise awareness of CSOs about potential risks of terrorist abuse. The next evaluation is expected in 2019. However, the sector is not informed about any on-going process. None of focus group meeting and survey participants had information about the process of reviewing the adequacy of laws.

Regarding financial transactions, currently there are no separate costs or regulations when CSOs send donations or grants abroad. The government does not charge additional fees for this kind of transactions. Moreover, the legislation does not require an approval from the government or sending of notice in advance or post-receipt procedures and reporting requirement. CSOs when sending donations or grants abroad are regulated the same way as any other international financial transactions. The National Bank of Georgia¹²² supervises international transfers - both from abroad to the country or vice versa. There are no requirements on receiving money from abroad. Regarding to the transactions from Georgia to abroad, according to the decree of the Bank, if amount exceeds 9,200 EUR (30,000 GEL) the serving bank is liable for submitting transaction-related documentations (e.g. contract) to the NBG which afterwards carries out detailed monitoring of the transaction. Thus, cross border financing of CSOs undergoes the same regulation. The commercial bank requests from the CSO the background documents of the money transfer and later on submits to FMS. Overall, the process is simple and clear without significant impediments from the state.

120 The Council of Europe Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (Moneyval) was established in 1997. Moneyval ensures that its member states have in place effective systems to counter money laundering and terrorist financing. In its activity Moneyval is based on FATF Recommendations and practice. Moneyval currently includes 30 members.

121 Georgia: Detailed Assessment Report on Anti-Money Laundering and Combating the Financing of Terrorism; IMF Country Report 13/04; July 3, <https://www.imf.org/external/pubs/ft/scr/2013/cr1304.pdf>
<https://www.fatf-gafi.org/countries/d-i/georgia/documents/mutualevaluationofgeorgia-2012.html>
For the purposes of this report, we will discuss the recommendations only under section of Non-profit organizations

122 The National Bank of Georgia is an independent state institution. Its independence is provided by Constitution of Georgia, as well as in the Organic Law on the "National Bank of Georgia." NBG is the central bank and supervisor of financial institutions in Georgia.

SPECIFIC RECOMMENDATIONS UNDER AREA 8:

- State Officials should avoid discriminatory approach and using hate speech and stigmatization toward specific CSOs and their representatives;
- CSOs shall be engaged in the process of Moneyval evaluation;
- The state should engage CSOs in the process of review of the adequacy of laws in terms of AML/CFT risk;
- The state should ensure any measures taken do not obstruct legitimate CSO activities and are based on the risk-based approach.

4.9 State Support

I. THERE ARE A NUMBER OF DIFFERENT AND EFFECTIVE MECHANISMS FOR FINANCIAL AND IN-KIND STATE SUPPORT TO CSOS

Currently, there is a decentralized and diversified state funding model. Despite the fact that state provides funding in different forms, there are significant gaps in the system. Namely, unified legislative standards that would ensure transparency and accountability are not in place; the local self-government entities are not allowed to issue grants; state grants are issued for limited range of purposes.

There are a number of different mechanisms for state financial and in-kind support to CSOs in Georgia. CSOs are eligible to receive state funding through grants, subsidies, state procurement, voucher system and so-called “program financing”. Nevertheless, the majority¹²³ of the income that CSOs receive comes from international donor organizations.

Georgia adopted grant legislation back in 1996. The Law on Grants of Georgia¹²⁴ establishes legal foundation for issuing and receiving grants. The Law provides definition of a grant, lists grant issuers and recipients and manages relation between them. According to the law, the grant issuing entity and the recipient conclude a written agreement which must include the purpose, the amount, timeline and other relevant information. One of the most important characteristic of grant is that they aim to achieve specific purpose that benefits public.

The law provides the list of eligible grant issuing entities. Each state institution issues grants in accordance to its mandate.

Graph 9. State Grant Allocation for CSOs in Georgia

STATE INSTITUTIONS	NO. OF PROJECTS	NO. OF ORGANIZATIONS	AMOUNT OF MONEY (EUR)
Ministry of Justice	9	6	18,828
Ministry of Internally Displaced Persons	N/A	N/A	55,052

¹²³ There is no updated data about the portion of foreign funding in CSOs overall income.

¹²⁴ Law on grants of Georgia

Ministry of Sport and Youth Affairs of Georgia	N/A	18	1,004,228
LEPL Center for Electoral Systems	19	N/A	550,000
LEPL Innovation Agency	N/A	N/A	1,120

Data provided until May, 2017
Source: Salamadze, Paniashvili, 2017

The graph shows that different Ministries issue grants. Purposes of state entity allocated grants, differ from the content of grant activities but they are limited as well. For example, grants issued by the Ministry of Justice of Georgia are typically utilized for objectives such as assistance of persons in conflict with law and raising their awareness, re-socialization of criminal offenders, improvement of their social skills, support of their employment and entrepreneurial initiatives. Grants allocated by the Ministry of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees of Georgia are directed towards the support of returned emigrants and improvement of internally displaced persons' livelihoods, etc.

The big disadvantage of Georgian granting system is that municipalities are not entitled to issues grants. The Law on Grants does not mention local self-government, implying that they are not entitled to issue grants. Nevertheless, the most recent data¹²⁵ shows that municipalities allocate fund to CSOs through so-called program financing. Due to the absence of the rules that regulate funding of CSOs by local government entities, practices vary from one municipality to another. Mostly, this type of funding is given to local CSOs in the fields of social issues, education, sports, ecology and others.¹²⁶ In contrast to grants, this type of funding does not imply tax benefits (which exists for grants) and is less favorable in terms of transparency (does not suggest open calls, competition and other characteristics which ensure transparency). The majority of focus group meeting participants have received funding from local self-government as a co-financing. They noted that funding is accessible in general, however the amount is limited.

Another form of financing to CSOs are subsidies. Usually, in this case there is no competition and specific CSOs are entitled to receive funding as prescribed by the law. Also, the form and rules of issuing subsidy depending on which state institution provides this type of support. For example, there are different rules for providing subsidies in sport to compare with cinematography. According to the special Law, the state supports the development of sports by providing technical and financial support. There is a separate Articles according to which the state provides subsidies to CSOs who are directly involved in sport¹²⁷. The responsible entity is Ministry of Sport and Youth Affairs of Georgia. In case of cinematography, the state also considers providing support for development of this field and every year assimilates certain amount of money in the budget which is also gives to CSOs via subsidies¹²⁸. The support is supervised by a special committee which provides funding according to the specific rules, based on applications.

125 http://civilin.org/pdf/State_Funding_Mechanisms_for_CSOs_in_Georgia.pdf

126 http://civilin.org/pdf/State_Funding_Mechanisms_for_CSOs_in_Georgia.pdf

127 Law of Georgia on Sports (Parliamentary Affairs, 24-25 / 3, 06.11.1996), Article 23.

128 The Law of Georgia on "National Bank of Georgia" (Article 49, 18/12/2000), Article 9.

State procurement is the most common form of public spending and buying goods/services. This mechanism is used by ministries, LEPL and local self-governments. CSOs are free to participate in state procurement. The Law of Georgia on Public Procurement ensures that state procurement is open to any person able to provide the needed service irrespective of whether it is a for-profit enterprise, not-for-profit organization or an individual. Despite the eligibility to bid for public procurement, state procurements provide specific requirements which are sometimes difficult for CSOs to meet. For example, organizations may obtain advance payment only in case they provide bank guarantee.¹²⁹ Furthermore, some CSOs that participated in state procurements believe that procurement service is usually not in compliance with their aims.

State support to CSOs is also provided through Voucher system. This type of funding is spent in the framework of social programs. For example, Tbilisi Municipality budget considers sub-programs for social security and offers co-financing for home care, free training at swimming pool and integrating people with disabilities in the society. These programs consider financing beneficiaries through non-materialized voucher. Through this form of funding, the organizations are reimbursed from the municipal budget for the services provided to the beneficiaries. Consequently, a CSO, taking into consideration the specificity of its activities, may receive funding from municipality budget. In-kind support at both national and local level is provided rarely.

II. STATE SUPPORT FOR CSOS IS GOVERNED BY CLEAR AND OBJECTIVE CRITERIA AND ALLOCATED THROUGH A TRANSPARENT AND COMPETITIVE PROCEDURE

Georgian legislation does not provide general principles and procedures for allocation of grants by state institutions. Additionally, local governments are not included in the public granting system. The OGP Action Plan considers increasing transparency of state funding system by establishing basic standards and principles in the process of granting. It also envisages improving the funding system at the local level.

Georgian legislation does not provide general principles and procedures for allocating grants (as the Law on Grants does not contain the procedure for that). There are no unified rules/standards on issuing funding or on how frequently and what type of information should be provided by the recipient. Ministries and legal entities of public law have developed their own rules on procedure. For example, the Ministry of Justice arranges the issues related to the acceptance of the grant competition application, qualification requirements, assessment criteria, publication of competition results, and other details concerning the grants competition¹³⁰. Moreover, it is considered as a good practice that the Minister of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees of Georgia allows participation of international or local CSO representative in reviewing council. On the other hand, Ministry of Sports and Youth Affairs or Ministry of Culture do not have any specific rules for grant allocation¹³¹. Nevertheless, the absence of unified standards does not prevent them from issuing grants.

¹²⁹ Law of Georgia on State Procurement (Article 22, 18.05.2005), Article 211

¹³⁰ http://civilin.org/pdf/State_funding_Reform_Policy_Eng.pdf

¹³¹ http://civilin.org/pdf/State_Funding_Mechanisms_for_CSOs_in_Georgia.pdf

The most recent research on State Funding Mechanisms in Georgia, has shown that each ministry provides financing under its competence. For example, MoJ allocates grants typically for re-socialization of criminal offenders, improvement of their social skills, and support of their employment and entrepreneurial initiatives. MIDP are typically directed towards assistance of returned migrants and activities such as improvement of internally displaced persons' livelihoods. The Ministry of Sports and Youth Affairs of Georgia allocates funds for such purposes as support of distinguished sports people, sports federations and organizations. Thereby, the research conducted by the Civil Society Institute reveals that normally, state grants are not issued to support causes such as institutional development of civil society organizations or investigation of activities of state entities, neither for such purposes as assessment of state entities' praxis in human rights defense, and development of reform proposals for various state policies.

CSI elaborated a policy paper on Civil Society Organizations' State Funding Reform¹³². The document was prepared through a highly participatory process and relies on the arguments and recommendations provided by participant CSOs. One of the components of the present initiative implies regulatory establishment of basic standards and principles (participatory decision making, preliminary identification of selection criteria, avoidance of conflict of interest, transparency etc.) in issuing grants. The initiative also considers authorization of local self-government as a grant issuing entity with the aim to facilitate better fulfillment of functions, encouragement of inter-municipal initiatives and increasing CSO-state cooperation on local level. The initiative is included in OGP Action Plan¹³³.

III. CSOS ENJOY A FAVORABLE TAX ENVIRONMENT

CSOs are eligible to receive significant tax exemptions. The process to receive tax exemptions is clear and consistent and requires reasonable amount of time and resources. Due to the most recent amendments, CSOs are no longer subject to taxation while conducting economic activities. However, the new regulations are subject to different interpretations.

The Tax Code of Georgia provides tax exemption mechanism for CSOs. Before 2019, the application of favorable tax regime to CSO was completely dependent upon the type of activities carried out by CSOs. If CSOs operated only under their not-for profit goals, they enjoyed the benefits. Vice versa, if CSOs run commercial activities, in the capacity of their commercial activities they are treated as business entities. The Tax Code used to establish favorable tax regime for CSOs only if they follow their pro-bono purposes. Due to the most recent amendments, Georgian parliament adopted changes to the Tax Code and introduced so-called "Estonian Model". Under the new regulations which entered into force from the January 2019, the object of profit tax are the organizations which conduct economic activities¹³⁴.

Under the new system, theoretically NELEs are given more capacity to conduct economic activities. In case the organization uses the income for reaching the goal of the organizations or for charitable purposes and re-invests it for its activities, it is no longer obliged to pay income

132 http://civilin.org/pdf/State_funding_Reform_Policy_Eng.pdf

133 <https://www.opengovpartnership.org/documents/georgia-action-plan-2018-2019/>

134 Tax Code of Georgia a.97(2)

tax. Experts claim that these amendments may be subject to various interpretations. Moreover, there is a possibility that this model might cause certain problems during implementation, such as false interpretation by the tax authorities. Hence, it is important to monitor the implementation of the new regulations.

NELEs also enjoy significant exemption from the VAT tax if they fund their activities through grant projects. The process is clear. The Tax Code differentiates “donations” and “grants”. According to the legislation, the grants are targeted to specific purposes, while donations are not. Grants can be issued to achieve specific charitable purposes which is usually strictly stipulated in the grant contract. Donations can be given to the CSOs in order to support their overall activities and not specific goals thereof. The tax code establishes different regime for grants and donations. Grants enjoy more preferable regime. Grants are exempt from profit tax and VAT and import tax as well. While donations are exempt from profit tax but not from the VAT. The Tax Code of Georgia provides incentives to commercial entities that donate money, provide free service or free property to charitable organizations. However, the tax incentive applies only to donations that are made to those organizations with charity status.

IV. BUSINESSES AND INDIVIDUALS ENJOY TAX BENEFITS FOR THEIR DONATIONS TO CSOS.

Businesses are eligible for tax deductions on making donations but only to charitable organizations. The ceiling on incentives are reasonable, placing few limitations on donations. However, receiving such incentives is complicated and time-consuming. Individual giving is not subject to any benefits. Overall, philanthropic culture remains underdeveloped.

The Tax Code of Georgia provides incentives to commercial entities which donate money, free services or free property to charitable organizations. Nevertheless, the donations shall be made to those CSOs which have Charity status. Commercial legal entities can deduct the value of money or the market value of free service/property gratuitously donated to charities. The overall amount of the value of money, or free service/property shall not exceed 10% of the net profit of business entity¹³⁵. However, the process of obtaining such a tax benefit is complicated, as profit is calculated according to the financial accounting and is different from tax accounting. Another impediment is that this benefit covers cases when business donates to charity organizations while ordinary CSOs are not included in the tax incentive mechanism. There are no tax incentives for individuals who donate money of free service/property to charities.

Georgia is ranked 118 among 135 countries according to the World Giving Index¹³⁶. Current legislation does not provide sufficient incentives to support philanthropy. Individual giving remains limited. Businesses do not show any interest to provide donations to CSOs.

¹³⁵ Tax Code a.98³(3)a

¹³⁶ https://www.cafonline.org/docs/default-source/about-us-publications/caf_wgi2018_report_webnopw_2379a_261018.pdf

V. LEGISLATION AND POLICIES STIMULATE VOLUNTEERING

The state has adopted a special law on volunteerism back in 2015 but tax exemptions related to the expenses for volunteer activities were not considered. This creates impediments for organizations to engage volunteers formally. Some other challenges include the low awareness among society, the lack of vision from the state and the lack of tangible data.

Georgia adopted its first regulation on volunteering in 2015. Beforehand, the term “volunteerism” did not exist either in Georgian legislation or in policies. Despite the voluntary character of volunteerism, the lack of declared rights of volunteers and absence of mechanisms for their legal protection was one of the factors for undeveloped culture of volunteerism in Georgia.

The Law defines “volunteerism”, establishes main principles of volunteer activities, determines subjects eligible to perform volunteer activities and organizations entitled to host volunteers. Law also describes the basic rights and obligations of volunteers and host organizations, as well as their relationships and responsibilities towards third parties.

The law regulates only formal voluntary relations in which natural person provides assistance to the legal person that is directly engaged in one of the socially useful activities¹³⁷. Any natural person above the age of 16 years can be a volunteer, while a minor under the age of 16 can take part in the voluntary relations with the consent of his/her legal representative if the voluntary relations do not contradict the interests of the minor, do not harm his/her moral, physical or mental development and do not limit his/her right and possibility to receive obligatory primary and base education. Also, unemployed people retain their status and right to enjoy unemployment privileges and benefits during the whole period of volunteering. The law introduces the term of “a host organization”, which implies for an organization that can use volunteer labor force. A host organization can be NELE, LEPL, local self-government and others (e.g. educational or medical institute, regardless of their legal form) listed in the law. Host organization is obliged to cover all volunteer related expenses, create safe environment for volunteer, compensate damage in case it occurs etc.

The initial draft law on Volunteering submitted to the Parliament considered tax exemptions¹³⁸ for volunteering. Nevertheless, the legislative body has not approved amendments to the Tax Code of Georgia. 45% of survey respondents reported engaging about 5 volunteers, while 6% reported not having volunteers at all. Several respondent CSOs reported that lack of effective mechanisms and sufficient tax regulations create obstacles for them to engage volunteers. Nationwide, the perception that doing volunteer work is important for a good citizen slightly increased¹³⁹. However, there are no tangible results nor researches that would provide clear image on how the Law on Volunteering affected general environment of volunteerism.

According to the director of the volunteer organization “Helping Hand”, the major problem is

137 The fields of socially useful activities are listed in the law (for example, human rights, democracy, development of civil society, media, education, science, culture, etc.)

138 Suggested amendments to the Tax Code of Georgia considered exemption of the costs issued by the host organization to a volunteer necessary for carrying out volunteer work, including amount for consulate services, amount for transport services, amount for hotel accommodation services, amount for food, etc.

139 <http://crrc-caucasus.blogspot.com/2016/03/volunteerism-in-georgia-between-2013.html>

the low interest from the state to support the development of volunteerism. Despite the fact that Helping Hand was actively cooperating with the Ministry of Sport and Youth Affairs of Georgia, tangible results have not been achieved. Nowadays, there is no state policy or strategy for the development of volunteerism in the country.

SPECIFIC RECOMMENDATIONS UNDER AREA 9:

- The state shall adopt regulatory establishment of basic standards and principles (participatory decision making, preliminary identification of selection criteria, avoidance of conflict of interest, transparency etc.) in issuing grants.
- The Government (Ministry of Finance, Ministry of Regional Development and Infrastructure) should encourage state institutions to support local initiatives by adding municipalities to the list of grant issuing entities (by adopting relevant legal amendments to the Law of Georgia on Grants);
- The state should encourage philanthropy by providing tax benefits to individual donors and simplifying deduction mechanism for donations from businesses;
- It is important to support implementation of “Estonian model”: state authorities should provide official explanatory note to the Tax Code and CSOs shall elaborate guidebook on how to implement these regulations.
- The government should adopt a strategy on the development of volunteerism in the country;
- CSOs should create tangible data by conducting a research on volunteering in Georgia.

4.10 State-CSO Cooperation

I.STATE POLICIES FACILITATE COOPERATION WITH CSOS AND PROMOTE THEIR DEVELOPMENT.

There are several examples of successful cooperation between the State and CSOs, such as the Memorandum between CSOs and Parliament, Open Governance Partnership. However, the government hesitates to adopt policy on CSO development.

There are several platforms which create space for the government-CSO cooperation. In 2013, the Parliament of Georgia and more than 145 civil society organizations signed a Memorandum for cooperation (drafted as a result of joint work with CSOs)¹⁴⁰. With the document the Government of Georgia acknowledged the role of CSOs and established new standard for cooperation. The memorandum is an open document and any interested civil society organization can join freely. The document consists of 10 Articles. Article 1 called on the Georgian Parliament and CSOs to elaborate State Concept for CSO development. The adoption of the Concept has also been incorporated in OGP Action Plan¹⁴¹. The Concept has been prepared

140 <http://www.civilin.org/Eng/viewtopic.php?id=121>

141 [https://idf.ge/public/upload/Open%20Parliament%20Georgia%20Action%20Plan%20\(2015-2016\).pdf](https://idf.ge/public/upload/Open%20Parliament%20Georgia%20Action%20Plan%20(2015-2016).pdf)

by Civil Society Institute through a high participatory approach¹⁴². The Concept ensures the state support to CSOs and establishment of policy dialogue between Parliament and CSOs. The concept has not yet been adopted by the Parliament.

As a member of Open Government Partnership¹⁴³, Georgia has implemented several important obligations and adopted its fourth Action Plan for the years 2018-2019. It is important to point out, that OGP Action plans are implemented at all levels, including executive, legislative and judicial branches. The involvement of local-self-government in the process is a novelty. OGP Action plans are developed through a participatory approach which involves different stakeholders. For example, on executive level the Action Plans were elaborated by OGP Secretariat¹⁴⁴ under the Ministry of Justice in collaboration with CSOs, international organizations and business representatives. CSOs' ideas often shape OGP commitments¹⁴⁵. Moreover, in the framework of OGP, there is a national coordination mechanism – OGP Forum. Forum is a permanent body represented by a CSO and Government of Georgia. CSOs nominate their candidate that are elected by the Forum. As a result of development of the fourth Action Plan, the Forum increased its membership by 8 new members. Forum aims to support elaboration of Action Plans, conducts public consultations, monitors and supports the Action Plan implementation and raises public awareness about the Open Government Partnership. The Forum operated under the supervision of MoJ, however, since 2019 the Government Administration is responsible for supervision and coordination of the processes.

Another good example of constructive collaboration is the Georgian National Platform of the Eastern Partnership Civil Society Forum. The Platform consists of 185 members and organizes regular meeting with the government as a part of structural dialogue. Five Working Groups (WGs) have been established within the CSF: 1) Democracy, human rights, good governance and stability; 2) Economic integration and convergence with EU policies; 3) Environment, climate change and energy security; 4) People to people contact 5) Social Dialogue¹⁴⁶. All WGs have their platform for discussion. The representatives of the WGs implement their own projects, regularly take part in EaP expert panels and multilateral platform meetings. Networking, communication and joint projects continue throughout the year within national and regional setting between the members of the Working Group¹⁴⁷. Some leading CSOs are no longer members of the platform due to the fact, that they are critically monitoring the government¹⁴⁸.

142 The initial draft of the concept was developed with the active engagement of the Initiative group. The work group prepared the white paper in June 2014 and held public discussions with local civic activists, members of local governments and NGOs/CSOs in 7 cities of Georgia (Tbilisi, Kutaisi, Batumi, Telavi, Gori, Ozurgeti and Zugdidi). In parallel to regional meetings, it was discussed within the Georgian National Platform of the Eastern Partnership Civil Society Forum and received positive feedback from the experts of European Center for Not-for-Profit Law (ECNL).

143 A multilateral initiative that promotes transparency, empowers citizens, and strengthens governance through CSOs-government collaboration

144 the Analytical Department of the Ministry of Justice of Georgia

145 <https://www.opengovpartnership.org/documents/georgia-action-plan-2018-2019/>

146 <https://eap-csf.ge/?lang=en-GB>

147 <http://archive.eap-csf.eu/en/working-groups/our-work-in-progress/>

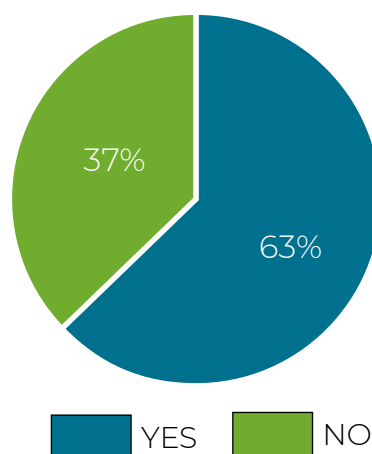
148 Roadmap https://eeas.europa.eu/sites/eeas/files/cs_roadmap_2018-2020_-_part_i_and_ii_consolidated_final_clean.pdf

II. THE STATE HAS SPECIAL MECHANISMS IN PLACE FOR SUPPORTING COOPERATION WITH CSOS.

There is a growing practice of establishing consultative bodies on both national and local level. The practice of CSOs participation varies and remains at the discretion of the state institution. Overall, the operation of these consultative bodies lack accessibility and transparency.

There is a growing tendency of establishment consultative bodies: committees, working groups, councils on both national and local level. However, there are no unified rules or standards on establishing joint committees. For example, on executive level Georgian legislation allows Georgian executive body, prime minister as well as ministers to establish consultative body (committee/council) on any issue¹⁴⁹. In general, they are established according to the normative acts which regulate issues regarding purposes, establishment, members, etc. The minister establishes the consultative body in order to prepare policies/documents and to support its implementation. The composition and purposes of the body differs depending on the state institution which coordinates the work of the consultative body. In addition, the participation of citizens or CSOs in the work of consultative body is the discretion of Advisory board of the body. Usually CSOs are selected considering their expertise and experience. However, these processes are not always transparent. Moreover, CSOs claim that their participation is not always meaningful and their recommendations are not taken into consideration in the final documents. Nevertheless, the practice varies. There are positive cases of participation. For example, there are successfully operational councils on corruption, elections, migration issues under supervision of MoJ¹⁵⁰. Usually, the members of the Council are representatives of governmental agencies, CSOs, international organizations and independent experts¹⁵¹. The Ministry of Labour, Health and Social Affairs of Georgia has a number of committees for social issues (housing, disabilities). The Information about the work of consultative bodies is publicly available. Nevertheless, the state does not always ensure that it is accessible to any interested person.

Graph 10. Did you participate in the work of a consultative body on issues of concern to your CSO in the past two years?



149 The Law of Georgia on the Structure, Authority and Rules of Operation of the Government of Georgia a.20 and a.29.

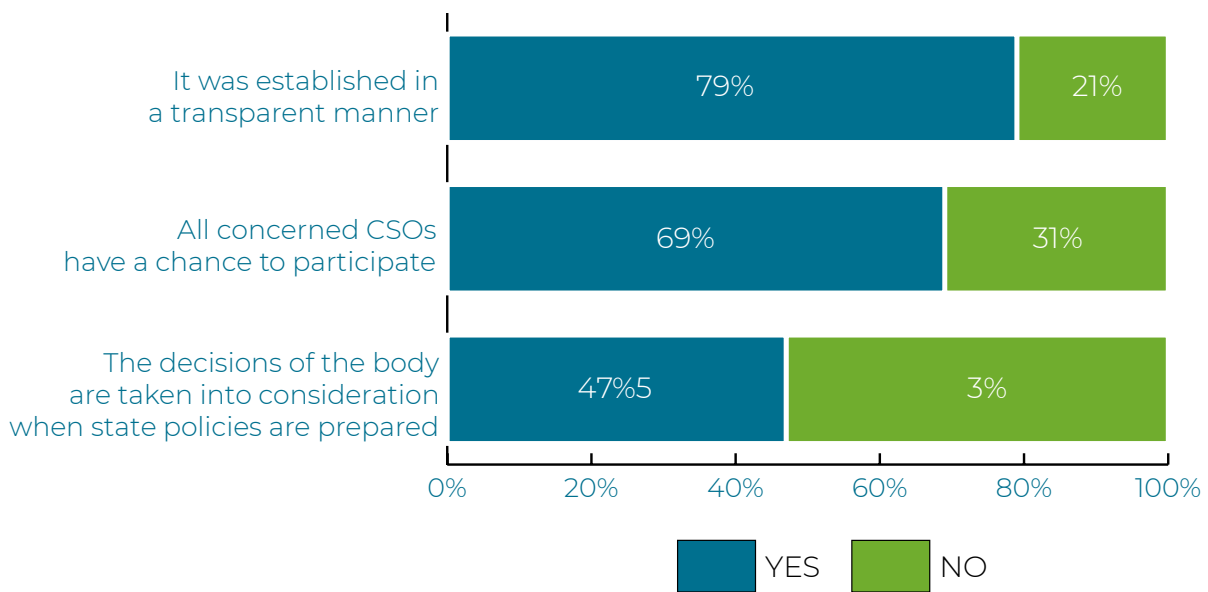
150 <http://www.justice.gov.ge/Ministry/Index/385>

151 <http://www.justice.gov.ge/Ministry/Index/238>

Majority of our respondents participated in the work of a consultative body. The participants were also asked why they did not participate. 57% of respondents named as a reason not being informed, 21% reported not being interested or not knowing about this possibility. None of them were refused to participate.

The survey respondents were asked to evaluate the work of consultative body. They named several positive cases when consultative bodies on local level are open and cooperative with CSOs. In some cases, their recommendations are even reflected in decisions. On the other hand, CSOs noted that most consultative bodies are formality and are established only because it is required by the law.

Graph 11. Please evaluate the work of consultative body:



SPECIFIC RECOMMENDATIONS UNDER AREA 10:

- The state shall develop in cooperation with CSOs and adopt a civil society development concept;
- State institutions shall be more open to cooperate with CSOs by engaging them more often in roundtables, expert reviews, stakeholder analyses;
- The state should ensure the suggestions of public councils are taken into consideration and their work is not formality;
- The state shall adopt unified standards to participate in public councils;
- The state should ensure that the establishment of consultative bodies happens in a transparent manner e.g. there are open calls for members, meeting information is announced in advance, meeting reports are published.

V. CONCLUSIONS & RECOMMENDATIONS

The civil society environment in Georgia is generally enabling. CSOs actively support democratic processes in the country by raising public awareness, introducing democratic values and increasing transparency and accountability in the political processes. Huge efforts are made by organizations to protect human rights and to promote the rule of law. Nevertheless, strong political influence on decision-making process results in unequal treatment, stagnation and hindered democratization of the country.

While the state plays a vital role in creating enabling environment for CSOs, it is equally important for the CSOs to take responsibility and increase their transparency and accountability. It is also important for the sector to create common vision on the most important issues of enabling environment in order to avoid deterioration and support further development.

The key recommendations provided in the report aim to improve the legislation and policies on the enabling environment issues and to decrease the gap between law and practice.

- The state should revise and simplify the regulations regarding liquidation procedure for both CSOs and businesses;
- CSOs shall improve their public image and increase their transparency by implementing the already adopted self-regulatory Standards on Accountability and Transparency;
- The Government of Georgia shall revise the Code of Administrative Offences to eliminate the unjustified intervention into the right to peaceful assembly (e.g. to detain individuals from participation and to hold them for administrative imprisonment without proper safeguarding guarantees);
- The Law enforcement shall follow human rights approach and international standards when overseeing an assembly;
- The state shall respect the high standard of expression and acknowledge that there is already a strong mechanism in place which envisages civil liability for defamation; any other initiative e.g. tightening norms on defamation would put freedom of expression and country's democratic development at risk.
- The state shall avoid interference in the editorial policies of media;
- Increase cooperation between media and CSOs in order to fight disinformation and hate speech by supporting existing resilient networks, creating counter-narrative and positive content, increasing awareness of the public.
- The state shall adopt regulations which will make public participation obligatory during the process of elaboration of draft laws or strategic documents by the executive branch. This mechanism will ensure providing timely feedback to all proposals made before the adoption of the respective policy or law.

- The state shall develop unified standard/rules on public consultations on draft laws and policies on national level;
- The Parliament should adopt the Freedom of Information Law;
- The state, in partnership with CSOs, shall initiate a wide campaign to increase the awareness among the general public about their rights to participate in decision-making;
- The state shall respect the right to privacy; the Surveillance Agencies shall provide sufficient guarantees of independence and shall not use its authority to illegitimately interfere with the activities of CSOs or private companies;
- State Officials should avoid discriminatory approach and stigmatization towards specific CSOs and their representatives;
- The state should engage CSOs in the process of review of the adequacy of laws in terms of AML/CFT risk;
- The state should ensure that any measures taken to eliminate money laundering and terrorism financing do not obstruct legitimate CSO activities and are in compliance with the risk-based approach;
- The state shall revise the Law of Georgia on Grants and establish regulatory framework of basic standards and principles (participatory decision making, preliminary identification of selection criteria, avoidance of conflict of interest, transparency etc.) in issuing state grants.
- The Government (Ministry of Finance, Ministry of Regional Development and Infrastructure) should encourage state institutions to support local initiatives by adding municipalities to the list of grant issuing entities (by adopting relevant legal amendments to the Law of Georgia on Grants);
- The state should provide sufficient mechanisms and incentives to support financial viability of CSOs by giving benefits to individual donors and simplifying deduction mechanism for businesses;
- It is important to support implementation of “Estonian model” to the Tax Code of Georgia by the state and CSOs; the state authorities should provide official explanatory note to new regulations in Tax Code of Georgia and CSOs shall elaborate guidebook on how to implement these regulations;
- The state should create a strategy for development of volunteerism; the Ministry of Finance should work on adopting tax incentives to encourage organizations in engaging volunteers;
- The Parliament of Georgia shall adopt the concept on State’s Support for CSOs development;
- The state should ensure that CSOs actively participate in the work of consultative bodies and their participation should not be a formality;

- The state should ensure that the establishment of consultative bodies takes place in a transparent manner e.g. there are open calls for members, meeting information is announced in advance, meeting reports are published.

VI. ANNEXES

THE CONSTITUTION OF GEORGIA

GEO (consolidated) <https://matsne.gov.ge/ka/document/view/30346?publication=35>

ENG (consolidated) <https://matsne.gov.ge/en/document/view/30346?publication=35>

THE CIVIL CODE OF GEORGIA

GEO (consolidated) <https://www.matsne.gov.ge/ka/document/view/31702>

ENG (Up to date by 2018) <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/90468/118660/F999089720/GEO90468%20Geo.pdf>

THE TAX CODE OF GEORGIA

GEO (consolidated) <https://matsne.gov.ge/ka/document/view/1043717>

ENG (Up to date by 2017) <https://matsne.gov.ge/en/document/download/1043717/93/en/pdf>

THE LAW OF GEORGIA ON ASSEMBLIES AND DEMONSTRATIONS

GEO (consolidated) <https://matsne.gov.ge/ka/document/view/31678?publication=14>

ENG (up to date by 2017) <https://matsne.gov.ge/ka/document/download/31678/10/en/pdf>

THE LAW OF GEORGIA ON FREEDOM OF SPEECH AND EXPRESSION

GEO (consolidated) <https://matsne.gov.ge/ka/document/view/33208?publication=6>

ENG (consolidated) <https://matsne.gov.ge/en/document/download/33208/1/en/pdf>

THE LAW OF GEORGIA ON GRANTS

GEO (consolidated) <https://matsne.gov.ge/ka/document/view/31510?publication=27>

ENG (outdated) <https://www.lexadin.nl/wlg/legis/nofr/oeur/arch/geo/LAWONGRANTS.pdf>

THE LOCAL SELF-GOVERNMENT CODE

GEO (consolidated) <https://matsne.gov.ge/ka/document/view/2244429?publication=41>

ENG <https://matsne.gov.ge/en/document/download/2244429/15/en/pdf>

THE LAW ON VOLUNTEERISM

GEO (consolidated) <https://matsne.gov.ge/ka/document/view/3132612?publication=2>

THE LAW ON LOBBYING ACTIVITIES

GEO (consolidated) <https://matsne.gov.ge/ka/document/view/13552?publication=6>

THE LAW OF GEORGIA ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION

GEO (consolidated) <https://matsne.gov.ge/ka/document/view/2339687?publication=1>

ENG https://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---ilo_aids/documents/legaldocument/wcms_361984.pdf

ADMINISTRATIVE OFFENCES CODE OF GEORGIA

ENG <https://matsne.gov.ge/en/document/download/28216/341/en/pdf>

GEO <https://matsne.gov.ge/ka/document/view/28216>

GENERAL ADMINISTRATIVE CODE OF GEORGIA

<https://matsne.gov.ge/ka/document/view/16270?publication=32>

<https://matsne.gov.ge/en/document/download/16270/18/en/pdf>

LAW ON NORMATIVE ACTS

<https://matsne.gov.ge/en/document/download/90052/12/en/pdf>

<https://matsne.gov.ge/ka/document/view/90052?publication=29>

LOCAL SELF-GOVERNMENT CODE

<https://matsne.gov.ge/en/document/download/2244429/15/en/pdf>

<https://matsne.gov.ge/ka/document/view/2244429?publication=43>

LAW ON PERSONAL DATA PROTECTION

<https://matsne.gov.ge/ka/document/view/1561437?publication=21>

RULES OF PROCEDURE OF THE PARLIAMENT OF GEORGIA

<https://matsne.gov.ge/ka/document/view/13528?publication=44>

http://www.parliament.ge/files/819_18559_127313_reglamenti.pdf

OSCE/ODIHR RECOMMENDATIONS

<https://www.osce.org/fom/15214?download=true>

<https://www.osce.org/odihr/73405?download=true> <https://www.osce.org/secretariat/23804?download=true>

CAUCASUS BAROMETER

<https://caucasusbarometer.org/en/datasets/>

USAID INDEX 2017

<https://www.fhi360.org/sites/default/files/media/documents/resource-civil-society-organization-2017-regional-report.PDF>

FREEDOMHOUSE

<https://freedomhouse.org/report/freedom-world/2019/georgia>

OGP ACTION PLANS

<https://www.opengovpartnership.org/documents/georgia-action-plan-2018-2019/>

WORLD GIVING INDEX

<https://www.cafonline.org/about-us/publications/2018-publications/caf-world-giving-index-2018>

WORLD PRESS FREEDOM INDEX 2019 GEORGIA

<https://rsf.org/en/ranking>

www.matsne.gov.ge

www.rs.ge

www.Csogeorgia.org

Geostat <https://www.geostat.ge/ka>

Evaluation of the pre-election environment of the 2018 presidential runoff made by leading watchdog organizations in Georgia is available at: <https://www.transparency.ge/en/post/evaluation-pre-election-environment-2018-presidential-runoff>

joint letter to political leaders in Georgia: <https://humanrightshouse.org/letters-of-concern/political-leaders-in-georgia-must-stop-slandering-civil-society-organisations/>

https://www.scribd.com/document/340989812/NGOs-Address-to-the-European-Court#-from_embed

<https://freedomhouse.org/report/nations-transit/2018/georgia>

World Press Freedom Index_2019 Georgia

Public information has been requested from National Agency for Public Registry (NAPR) under the Ministry of Justice in 2018

CSO integrated database www.csogeorgia.org

Salamadze V, Paniashvili L, et al, 2017, State Funding mechanisms for Civil Society Organizations in Georgia

https://eeas.europa.eu/sites/eeas/files/cs_roadmap_2018-2020_-_part_i_and_ii_consolidated_final_clean.pdf

https://www.cafonline.org/docs/default-source/about-us-publications/caf_wgi2018_report_webnopw_2379a_261018.pdf

<http://www.civilin.org/Eng/cssi.php>

https://eeas.europa.eu/sites/eeas/files/cs_roadmap_2018-2020__part_i_and_ii_consolidated_final_clean.pdf

Volunteerism in Georgia between 2013-2015

<https://napr.gov.ge/p/617>

Declaration of key principles for civil society organizations available at: <https://csogeorgia.org/en/declaration>

Website for the Revenue Service, Registry of Charitable Organizations, <http://www.rs.ge/4761>

<https://napr.gov.ge/pol>

<http://georgiatoday.ge/news/12888/NGOs%3A-Officials%27-Attack-on-Civil-Sector-Harms-Georgian-Democracy>

Georgia Today <http://georgiatoday.ge/news/9886/Kobakhidze-Slams-Freedom-House-Report-and-%E2%80%9CPseudo-Liberal%E2%80%9D-NGOs>

http://civilin.org/pdf/Guidebook_2012.pdf

http://civilin.org/pdf/State_Funding_Mechanisms_for_CSOs_in_Georgia.pdf

http://civilin.org/pdf/State_funding_Reform_Policy_Eng.pdf

FoA in Georgia <http://www.icnl.org/research/resources/assembly/FoA%20in%20Georgia.pdf>

OC Media <https://oc-media.org/eight-arrested-in-anti-drug-raids-on-tbilisi-nightclubs/>

<https://eurasianet.org/georgia-protests-nightlife-against-nationalists>

http://coalition.ge/index.php?article_id=187&clang=1

<https://oc-media.org/ultraconservative-and-anti-putin-protesters-face-off-as-queer-activists-hold-impromptu-pride/>

<https://oc-media.org/5-violations-by-police-during-the-tbilisi-clash/#more-19363>

Events of 20 June: Dispersal of the Rally and Related Practices of Human Rights Violation (Initial Legal Assessment) available at: <https://emc.org.ge/en/products/20-ivnisis-movlenebi-aktsiis-dashla-da-damianis-uflebebis-darghvevis-dziritadi-praktika-pirveladi-samartlebrivi-shefaseba>

<https://freedomhouse.org/report/freedom-world/2019/georgia>

TI The police interfere grossly with the constitutional right to peaceful assembly 05 October, 2018

Constitutional amendments (www.matsne.gov.ge), 19.10.2017 <https://matsne.gov.ge/ka/document/view/4110673?publication=0>

<https://idfi.ge/en/guide/guide/>

<https://www.opengovpartnership.org/documents/georgia-mid-term-report-2016-2018-year-1/>

<https://rm.coe.int/168065755a>

<https://idfi.ge/en/access-to-public-information-in-georgia-report-summarizing-2010%E2%80%932015>

Institute for Development of Freedom of Information (IDFI) is monitoring access to information in Georgia since 2010. In that regard, IDFI has identified main trends and challenges and contributed in development of accountability of public sector and open governance.

https://idfi.ge/en/2017_open_and_closed_public_institutions_in_georgia

http://press.tsu.ge/data/image_db_innova/disertaciebi_samartali/gia_gogiberidze.pdf

The judgment of 30 September 2016 of the Constitutional Court of Georgia on the case N1/6/561,568 Georgian citizen Yuri Vazagashvili vs. the Parliament of Georgia, II, 40.

IDFI - The importance of freedom of expression in a democratic society

<https://www.osce.org/fom/15214?download=true>

<http://liberali.ge/articles/view/36020/parlamentshi-religiuri-grdznobebis-sheuratskhyo->

faze-emzar-kvitsianis-initsiativas-ganikhilaven

Law of Georgia on Freedom of Speech and Expression, Articles 13 and 14.

<https://oc-media.org/proposed-georgian-defamation-law-puts-freedom-of-speech-at-risk/>

<http://agenda.ge/en/news/2019/274>

<https://www.georgianjournal.ge/politics/35503-eka-beselia-you-will-not-be-able-to-stop-me-to-make-me-stay-silent-to-disappear-me.html>

<https://humanrightshouse.org/articles/georgia-passes-antidiscrimination-law/>

<https://old.civil.ge/eng/article.php?id=27192>

Inventory of Policy Documents and Legislation adopted by OSCE participating States and Partners for Co-operation on Countering violent extremism and radicalization that lead to terrorism (VERLT) Summary of the Feedback Received by 14 December 2016 – fourth Update

<https://ssg.gov.ge/en/news/402/The-US-State-Department-Report-Named-State-Security-Service-of-Georgia-as-the-Lead-Authority-in-the-Field-of-Fight-against-Terrorism>

<https://www.refworld.org/docid/5bcf1fa64.html>

Georgia: Detailed Assessment Report on Anti-Money Laundering and Combating the Financing of Terrorism; IMF Country Report 13/04; July 3, <https://www.imf.org/external/pubs/ft/scr/2013/cr1304.pdf>

<https://www.fatf-gafi.org/countries/d-i/georgia/documents/mutualevaluationofgeorgia-2012.html>

For the purposes of this report, we will discuss the recommendations only under section of Non-profit organizations

Law of Georgia on Sports (Parliamentary Affairs, 24-25 / 3, 06.11.1996), Article 23.

The Law of Georgia on “National Bank of Georgia” (Article 49, 18/12/2000), Article 9.

Law of Georgia on State Procurement (Article 22, 18.05.2005), Article 211

<http://crrc-caucasus.blogspot.com/2016/03/volunteerism-in-georgia-between-2013.html>

<http://www.civilin.org/Eng/viewtopic.php?id=121>

[https://idfi.ge/public/upload/Open%20Parliament%20Georgia%20Action%20Plan%20\(2015-2016\).pdf](https://idfi.ge/public/upload/Open%20Parliament%20Georgia%20Action%20Plan%20(2015-2016).pdf)

<https://www.opengovpartnership.org/documents/georgia-action-plan-2018-2019/>

<http://archive.eap-csf.eu/en/working-groups/our-work-in-progress/>

Roadmap https://eeas.europa.eu/sites/eeas/files/cs_roadmap_2018-2020_-_part_i_and_ii_consolidated_final_clean.pdf

<http://www.epfound.ge/wp-content/uploads/2016/12/Situation-Analysis-of-CSOs-in-Georgia.pdf>

<http://www.justice.gov.ge/Ministry/Index/385>

<http://www.justice.gov.ge/Ministry/Index/238>

