

# CSO METER

A compass to conducive  
environment and  
CSO empowerment

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**MOLDOVA 2021**  
**COUNTRY REPORT**

CHIȘINĂU





European Center for  
Not-for-Profit Law



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**Promo - LEX**

*Advancing democracy and human rights*

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Promo-LEX Association is a non-governmental organisation established in 2002. It aims to advance democracy in Moldova, including in the Transnistrian region, by promoting and defending human rights, monitoring democratic processes, and strengthening civil society.

Promo-LEX Association operates through two programmes:

- (1) the Human Rights Programme, which aims to promote and implement international human rights standards in Moldova; and
- (2) the Monitoring Democratic Processes Programme, which aims to improve the quality of and to increase citizens' level of trust in democratic processes in Moldova.

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# ACRONYMS & ABBREVIATIONS

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AI	Artificial intelligence
AML/CTF	Anti-money laundering and counter-terrorism financing
CNESP	National Extraordinary Commission for Public Health ( <i>Comisia Națională Extraordinară de Sănătate Publică</i> )
CPA	Central Public Administration
CSDS	Civil Society Development Strategy 2018-2020
CSO	Civil society organisation
EaP	Eastern Partnership
EGA	Electronic Governance Agency
EUR	Euro
GDP	Gross Domestic Product
LAG	Local Action Group
LGBT	Lesbian, Gay, Bisexual and Transgender
LPA	Local Public Authority
MDL	Moldovan Leu
MoJ	Ministry of Justice
PAS	Party of Action and Solidarity ( <i>Partidul Acțiune și Solidaritate</i> )
PSA	Public Services Agency ( <i>Agenției Servicii Publice</i> )
SIS	Security and Intelligence Service of the Republic of Moldova ( <i>Serviciul de Informații și Securitate al Republicii Moldova</i> )
SLAPPs	Strategic lawsuits against public participation
USD	United States Dollar
VAT	Value Added Tax

# I. EXECUTIVE SUMMARY

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During 2020-2021, the overall environment for civil society organisations (CSOs) in the Republic of Moldova showed little to no change in most areas, except in the area of freedom of assembly, where, following the relaxation of anti-pandemic measures, the restrictions on public assemblies were cancelled. This report reflects developments in the CSO enabling environment up to November 2021. The main external factors that influenced this environment during the relevant period were the Covid-19 pandemic and the political crisis that lasted for most of the reporting period. In December 2020, in the difficult context of the pandemic, Maia Sandu was elected president of the Republic of Moldova. In the same month, the contested government of Ion Chicu resigned, and the parliament, dominated by a coalition led by the Socialist Party, failed to appoint another prime minister. In an attempt to prolong its mandate, the coalition imposed a new state of pandemic emergency in April 2021. The state of emergency brought serious limitations to several areas of the CSO enabling environment, but was eventually declared unconstitutional by the Constitutional Court, and the president dissolved the parliament. In snap parliamentary elections held in July 2021, the Party of Action and Solidarity (PAS) (pro-European integration and pro-presidential) took a majority of the seats and appointed Natalia Gavriliță as prime minister. PAS is engaged in a mandate of reforms targeting European integration.

In this context, only a few slight improvements have taken place in some areas, while a wide range of problems remain unresolved. Many of the previous CSO Meter recommendations therefore remain in place. Nevertheless, no regression was registered in any area compared to in the previous reporting period.

The new parliament and government are more open to cooperation with CSOs compared to the previous administrations, which is favourable for CSOs' attempt to overcome systemic problems concerning access to information, participation in decision-making and cooperation with the authorities. The entry into force of the Council of Europe Convention on Access to Official Documents<sup>1</sup> in December 2020 is also expected to support the improvement of the situation in the area of access to public information.

Most legal initiatives regarding the CSO enabling environment were suspended at different stages throughout 2021 due to the political crisis and resulting institutional instability. A significant legislative change occurred in April 2021 when the Law on

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<sup>1</sup> Council of Europe Convention on Access to Official Documents (CETS No. 205), <https://www.coe.int/en/web/conventions/full-list?module=treaty-detail&treatynum=205>.

Local Action Groups (LAGs) was adopted. However, in 2021, no LAGs have been registered according to the new law. Otherwise, the legal framework still functions poorly in the areas of philanthropy, hate crimes, public procurement of social services, and social entrepreneurship, with legal amendments proposed by CSOs in past years remaining pending.

A significant improvement has occurred in this reporting period in the area of freedom of assembly – the area most affected by the Covid-19 pandemic. The main restrictions, effective for over a year since the beginning of the pandemic, have been lifted, but some CSOs still refrained from holding assemblies because of the infection risks. The evolution of anti-pandemic restrictions is unpredictable and these could again affect peaceful assemblies (as well as other rights), particularly if the main decision-making body in this matter does not adopt human rights based approach. Cases of disproportionate physical interventions by law enforcement were also reported in 2021.

CSO activists continue to be confronted with violations of privacy, these being confirmed by a new case of wiretapping. Excerpts of this wiretapping were used by the Prosecutor General in public speeches in October 2021. At the same time, the protection provided by state bodies is imperceptible and the justice system, where cases are addressed, does not provide for sanctions that are an effective deterrent. In 2021, the Security and Intelligence Service of the Republic of Moldova (SIS) conducted a risk assessment concerning CSOs' vulnerability to terrorist financing, but failed to ensure transparency in this process and did not provide any public conclusions.

CSOs with public benefit status lost their benefits in 2021 (fiscal facilities, free of charge or preferential use of public property, non-reimbursable financing, contracting works and services) because the committee responsible for extending these benefits has not been active since 2020. In general, during the pandemic, state institutions did not provide support for CSOs, aimed to facilitate their activities during this period. International donors remain the main sources of income for CSOs. Changes in priorities for financing programmes caused money shortages for many CSOs during the pandemic. Some financial aspects improved in 2021. Revenues from the percentage designation mechanism increased by 53 per cent to a total of 454,000 EUR and returned to the pre-pandemic trend, after a drop of 17 per cent in the previous year. A new regulation for subsidization of taxes for social enterprises that employ people with disabilities was also adopted.

The total number of CSOs in the Republic of Moldova continued to grow. In September 2021, there were 11,569 registered CSOs, 355 of which were registered in 2021. The total number is probably higher, with a few hundred CSOs previously registered with local public authorities (LPAs) not being included in any official register to date. The State Register of Non-Commercial Organisations itself is

outdated and not integrated with other state registers. Approximately 3,000 already-registered CSOs adjusted their registration documents at the registering authority as provided for by the new Law on Non-Commercial Organisations adopted in 2020 requiring that all CSOs adjust their registration documents by September 2022. Registration authority employees continued to burden the process of registration (and re-registration) of CSOs with non-compliant practices (including additional fees and conditions for registration).

Given the widespread access to the internet and the intensification of online activities in Moldova, there is a wide spectrum of possibilities for citizens to exercise their rights online (e.g. freedom of expression and access to information, freedom of online assembly, online education, the right to anonymity, the right to be forgotten). The area of digital rights is mostly unregulated, however, and the development of digital technologies is done without specific reference to respect for human rights.

## Key priorities for the improvement of the CSO enabling environment include:

- the adoption of a new strategic document for the development of civil society that should also include actions not performed in the previous strategy (the 2018-2020 Civil Society Development Strategy);
- the development of a modern registry for CSOs and compliant registration procedures;
- the adjustment of the legal framework for public procurements to contain a legal mechanism for contracting social services;
- the development of a unified online platform for transparency and CSOs' participation in decision-making;
- amendments to the Law on Philanthropy and Sponsorship to encourage philanthropic activities;
- Non-intrusive operating procedures for LPAs and law enforcement agencies during public assemblies; and
- a unified mechanism for state funding of CSOs and transparency in the process of the assessment and monitoring of the vulnerability of CSOs to terrorist financing.

# II. MOLDOVA – IN NUMBERS

## Basic data

Population: 2,597,107<sup>2</sup> | GDP per capita: USD 12,325<sup>3</sup> | Number of CSOs: 11,569 (out of 14,839 non-commercial organisations)<sup>4</sup> | CSOs per 10,000 inhabitants: 44 | Registration fee for CSOs: None | Freedom in the World: 62 (Partly Free)<sup>5</sup> | World Press Freedom Index: 68.39 (89 out of 180 countries)<sup>6</sup> | Public trust in CSOs: 29.8 per cent of the surveyed population have either 'a lot of trust' or 'some trust' in CSOs<sup>7</sup>



Country score: 4.6  
 Legislation: 5.0  
 Practice: 4.3

The scores range from 1 to 7, where 1 signifies the lowest possible score (extremely unfavourable – authoritarian - environment) and 7 signifies the highest possible score (extremely favourable environment).

Areas	Overall	Legislation	Practice
Freedom of association	5.4	5.6	5.3
Equal treatment	4.6	4.8	4.4
Access to funding	5.1	5.6	4.7
Freedom of peaceful assembly	5.2	5.4	5.0
Right to participation in decision making	4.7	5.2	4.3
Freedom of expression	4.9	5.3	4.6
Right to privacy	4.4	5.3	3.4
State duty to protect	4.5	5.0	4.1
State support	4.2	4.6	3.9
State-CSO cooperation	4.0	4.2	3.7
Digital rights	4.1	4.3	3.9

<sup>2</sup> National Bureau of Statistics, <https://statistica.gov.md/newsview.php?l=ro&idc=168&id=7057>.

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

<sup>4</sup> State Registry of Non-Commercial Organisations, <https://asp.gov.md/sites/default/files/date-statistice/RSON.xlsx>. The list of other non-commercial organisations consists of religious cults (1,716), public institutions (1,137), employers' unions (152), periodic publications (118), trade unions (96) and political parties (51).

<sup>5</sup> Freedom House, <https://freedomhouse.org/countries/freedom-world/scores>

<sup>6</sup> World Press Freedom Index 2021, <https://rsf.org/en/ranking>.

<sup>7</sup> Public Policies Institute, Public Opinion Barometer, June 2021, <https://ipp.md/wp-content/uploads/2021/07/Raport-BOP-2021.pdf>.



# III. FINDINGS

## 3.1 Freedom of Association

Overall score per area: **5.4 / 7**

Legislation: **5.6 / 7**

Practice: **5.3 / 7**

The situation in this area improved slightly.

Freedom of association is enjoyed by any natural and legal person, except for public authorities and institutions, state and municipal enterprises that cannot establish or become members of CSOs. The situation in this area did not register any significant progress since the adoption in 2020 of the Law on Non-Commercial Organisations. During the reporting period, CSOs started the procedure of re-registration based on the new law. There was a slight improvement determined by the adoption of the Law on Local Action Groups in 2021. No LAG was registered based on the new law, however, owing to administrative and conceptual issues.

The registering authority – the Public Services Agency (PSA) - has not managed to eliminate all practices of its employees that do not comply with the law during the registration (and re-registration) of CSOs, mentioned in previous reports and confirmed in the current reporting period.

### **Standard I. Everyone can freely establish, join, or participate in a CSO.**

Freedom of association is protected narrowly in the Constitution of the Republic of Moldova,<sup>8</sup> provided for only as the right to join and create trade unions. Freedom of association is regulated by the Law on Non-Commercial Organisations<sup>9</sup> adopted in 2020. Any legal and natural person can establish a CSO and can become member of one, except for public authorities and institutions, state and municipal enterprises that may not form non-commercial organisations and may not become members of such organisations. The previous limitation preventing members of the government and public officials who work at the registrar of CSOs, or those who control or promote state policy in priority areas for public associations, from founding public associations was excluded in 2020 by the new law. CSOs are free to accept or refuse new members according to their statutes. Any interested person has the possibility to engage in volunteering or support CSO activities.

There are three legal forms of CSO provided for by law: (i) public association; (ii) foundation; and (iii) private institution, all of which can operate without territorial

<sup>8</sup> Art. 42, The right to establish and join trade unions, Constitution of the Republic of Moldova, 1/1994, [https://www.legis.md/cautare/getResults?doc\\_id=111918&lang=ro](https://www.legis.md/cautare/getResults?doc_id=111918&lang=ro).

<sup>9</sup> Law on Non-Commercial Organisations, 86/2020, [https://www.legis.md/cautare/getResults?doc\\_id=122391&lang=ro](https://www.legis.md/cautare/getResults?doc_id=122391&lang=ro).

limits. The association in the form of LAG<sup>10</sup> is regulated by the Law on Local Action Groups,<sup>11</sup> which was adopted in 2021. In October 2021, the Ministry of Agriculture and Food Industry adopted a Guide for LAGs<sup>12</sup> with recommendations regarding the process of registration and the constitution of LAGs. To date, none of the active LAGs has been registered under the new law. The main reason is that the PSA has not yet established a formal registration procedure. There are issues related to contradictory interpretations of the relevant legal provisions. The PSA requires that individuals who can become members of a LAG<sup>13</sup> should be registered natural persons (there are two options, either ‘Peasant Household’ or ‘Individual Enterprise’). There are currently 30 active LAGs in the Republic of Moldova, and another 15 are in the process of creation. The combined number of LAGs is expected to cover about 50 per cent of the total number of rural localities.<sup>14</sup>

People can also associate online and offline without registration, but, in this case, they cannot operate bank accounts, access funding or have other benefits designated for legal persons. CSOs are free to request and receive financial and material means.

#### **Standard II. The procedure to register a CSO as a legal entity is clear, simple, quick, and inexpensive.**

The registration procedure for CSOs is free of charge and, according to the law, takes up to 15 days although sometimes the procedure is performed quicker. Registration can be done at the PSA’s regional centres distributed across the country, but applications are usually processed by the central unit of the PSA. Online registration is not possible. One of the operational limitations of the PSA is the absence of registrars in all of its regional centres. Registration is carried out based on a pre-defined list of documents, provided by law and the declaration on the beneficial owner of the legal entity<sup>15</sup> required by anti-money laundering and counter-terrorism financing (AML/CTF) legislation. The latter has been criticised as having no objective substance for CSOs. In the case of private institutions, the PSA also requires that CSOs<sup>16</sup> bring extracts that the PSA itself issues for a fee. The PSA also charges CSOs 440 MDL (about 22 EUR) for issuing a certificate for emergency verification of name availability. Twelve months after the entry into force of the new law, the PSA had still not updated its official webpage, requesting additional documents and requirements for

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<sup>10</sup> LAGs are institutionalised partnerships of representatives of the public, civic and business sectors at the microregion level focused on local development. LAGs are key stakeholders in the LEADER approach.

<sup>11</sup> Law on Local Action Groups, 50/2021, [https://www.legis.md/cautare/getResults?doc\\_id=126245&lang=ro](https://www.legis.md/cautare/getResults?doc_id=126245&lang=ro).

<sup>12</sup> Order 28/2021 regarding adoption of the Guide for LAGs, [https://maia.gov.md/sites/default/files/Documente%20atasate%20Advance%20Pagines/28\\_21.10.2021%20Ro\\_0.pdf](https://maia.gov.md/sites/default/files/Documente%20atasate%20Advance%20Pagines/28_21.10.2021%20Ro_0.pdf).

<sup>13</sup> Art. 8, ‘Members’, Law on Local Action Groups, 50/2021.

<sup>14</sup> <https://leaderin.md/lansarea-campaniei-promotionale-de-la-a-la-gal/>.

<sup>15</sup> Based on Art. 14 of Law on Preventing and Combating Money Laundering and Terrorist Financing, 308/2017, [https://www.legis.md/cautare/getResults?doc\\_id=110418&lang=ro](https://www.legis.md/cautare/getResults?doc_id=110418&lang=ro).

<sup>16</sup> PSA, <https://asp.gov.md/sites/default/files/documente-necesare/Institutiei-Private.pdf>.

registration (e.g. payment of the registration fee in the amount of 90 MDL, about 4.5 EUR)<sup>17</sup> which are not actually required.

The PSA may only refuse registration in a limited number of circumstances provided by law, including for the absence of the declaration on the beneficial owner. In practice, PSA registrars may sometimes refuse to process an incomplete package of documents. Judicial review is provided in cases of refusal.

According to the Law on Non-Commercial Organisations, CSOs have to adjust their registration documents at the PSA by September 2022, otherwise they might be subject to a forced liquidation procedure. By the time of this report, approximately 3,000 non-commercial organisations had adjusted their registration documents at the PSA. At the current pace, it is likely that by September 2022 there will be thousands of CSOs that have not undertaken the adjustment procedure. This will create management problems which the PSA needs to anticipate and address. In order to comply with the new law, CSOs need to ensure that the persons who make up their management and control bodies meet the conditions stipulated by the new law and need to amend their statutes in accordance with the new law. In this regard, the PSA has provided updated models for CSOs' internal documents on its website. During this process, some CSOs have accused the PSA of confusion regarding the requirements of individual PSA desk officers and incoherence regarding internal documents. One of the main disputes has concerned the administrator of the CSO. This person may not be a member of the board and, as a semantic issue, PSA officers have expressly requested that the chief executive of a CSO be referred to as the 'administrator'.

**Standard III. CSOs are free to determine their objectives and activities and operate both within and outside the country in which they were established.**

CSOs are free to establish their own goals and activities and can operate without limitation on the territory of the country which is under the control of the constitutional authorities. CSOs engage in different legal areas of operation, nationally and also internationally via structures, platforms and other formats, without obstacles imposed by state authorities. Under the previous law, CSOs were limited in their geographical area of operation (local or national), but this limitation has been excluded in the new law.

**Standard IV. Any sanctions imposed are clear and consistent with the principle of proportionality and are the least intrusive means to achieve the desired objective.**

CSOs may be subject to sanctions for violations of general legislation, but there is no recorded systemic use of such sanctions. Involuntary termination of a CSO is possible if its activity is contrary to the interests of national security, public security, and the

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<sup>17</sup> PSA, <https://asp.gov.md/sites/default/files/documente-necesare/asociatiei-obstesti.pdf>;  
<https://asp.gov.md/sites/default/files/documente-necesare/fundatiei.pdf>;  
<https://asp.gov.md/sites/default/files/documente-necesare/Institutiei-Private.pdf>.

protection of the rule of law or the prevention of crime, or the protection of the health, morals, rights and freedoms of others. Failure to present an annual activity report following repeated requests from the Ministry of Justice (MoJ) is also a reason for involuntary termination of a CSO on the condition that this is necessary in a democratic society. The court may suspend a CSO during the settlement of a liquidation claim, but only if necessary in a democratic society. The court may allow CSOs to remove, within 6 months, the deficiencies that led to the liquidation claim. In the reporting period there were no cases of involuntary suspension or liquidation of CSOs.

#### **Standard V. The state does not interfere in the internal affairs and operation of CSOs.**

CSOs are free to design their own internal structure, governance bodies and operations. The previous right of the registering authority to obtain information about all aspects of a CSO's activity, to review the CSO's documents and to monitor all of its actions is no longer valid in the new law. CSOs have to publish (mostly online) their annual narrative reports within six months of the end of the year, or present a copy of the report to anyone who asks to see it CSOs are also required to submit periodic reports about their financial and tax situations which includes reports on income tax withholding, mandatory health insurance and mandatory social insurance contributions (monthly), consumables and expenditures (quarterly), and their financial situation (annually). Other reporting obligations apply to CSOs that benefit from different complementary mechanisms and these can include a report on the use of funds received as percentage designation, a report of the host volunteer organisation or a report concerning security incidents for personal data operators. Most of the aforementioned reports can be easily submitted online.

CSOs are rarely subject to financial and tax inspections performed by government institutions.<sup>18</sup> CSOs that provide medical and social services are regularly verified by specialised institutions for compliance with hygiene and sanitary conditions. A new practice of periodic verification has been observed lately in the case of organisations that employ persons with disabilities that have the right to receive subsidies based on new regulations.<sup>19</sup>

#### **Specific recommendations:**

- The PSA should simplify the procedure for CSO registration and perform the CSO name availability verification at the time of the registration appointment (with the option to check this online in advance with the State Register of Legal Units);
- The PSA should train staff from all of its regional centres so that their requests and procedures during CSO registration comply with the provisions of the Law on

<sup>18</sup> Art. 57, Title V, Chapter 11, Tax Audit, Tax Code of the Republic of Moldova, 1163/1997, [https://www.legis.md/cautare/getResults?doc\\_id=79111&lang=ro](https://www.legis.md/cautare/getResults?doc_id=79111&lang=ro).

<sup>19</sup> Government Decision for the approval of the Regulation on Subsidising Jobs, 49/2021, [https://www.legis.md/cautare/getResults?doc\\_id=126195&lang=ro](https://www.legis.md/cautare/getResults?doc_id=126195&lang=ro).

Non-Commercial Organisations (i.e., eliminate fees and practices during CSO registration procedures that do not comply with the Law on Non-Commercial Organisations, such as the emergency tax for performing a name availability check);

- The parliament should eliminate the requirement for CSOs to provide a statement on their beneficial owner given that the legal notion does not coincide with the lexical meaning of the term and the practical application does not correspond to the purpose provided in the Law on Preventing and Combating Money Laundering and Terrorism Financing;
- The PSA should provide all CSOs with an information note on the need to adjust their registration documents in accordance with the Law on Non-Commercial Organisations; and
- The PSA should put the necessary systems in place to enable CSOs to register online.

## 3.2 Equal Treatment

Overall score per area: **4.6 / 7**

Legislation: **4.8 / 7**

Practice: **4.4 / 7**

The situation in this area has remained the same as for the previous reporting period.

There are issues of unequal treatment of CSOs. The registration procedure of CSOs is free of charge, but is slower, more complicated and less accessible than for commercial entities. The State Register of Non-Commercial Organisations is outdated and not interoperable with other registers, which slows down the registration procedure. A unified Register of Legal Units including CSOs is expected to be developed by 2023. Commercial entities are favoured in public procurement procedures, but are more exposed to tax audits compared to CSOs. There was no progress in improving the legal framework for the participation of CSOs in public procurements as cited in previous reports. The state budget still provides preferential subsidies for some CSOs.

### **Standard I. The state treats all CSOs equitably with business entities.**

Commercial entities benefit from more favourable treatment than CSOs in several respects. The duration of CSO registration (up to fifteen days) is longer compared to commercial entities that can register in twenty-four hours or four hours if the priority service is used.<sup>20</sup> CSOs are also required to provide a greater number of documents for registration than a business entity, such as the statute, the confirmation of an existing office/legal address, a certificate for the name availability verification, and, in the case of national associations and sports federations, a permit from public authorities. Online registration is not possible either for commercial entities or for CSOs.

<sup>20</sup> PSA, <https://asp.gov.md/node/9>; <https://asp.gov.md/node/10>.

Registration of commercial entities is supported by an automated registration system that provides data and an overall quicker registration procedure. The state register of CSOs<sup>21</sup> itself is outdated and not interoperable with other registration systems. This causes slowdown in the records of CSOs and the registration procedure. At the current time, hundreds of CSOs that were previously registered by LPAs are still not included in the state register because local documentation has been lost. These CSOs cannot therefore receive legal extracts from the registering authority. In 2020, a re-engineering of the registration system commenced. It is expected that by 2023 a new unified Register of Legal Units, to include CSOs, will be developed.

On the positive side, registration is free for CSOs, while commercial entities are charged 18 EUR (the normal procedure for individual entrepreneurs)<sup>22</sup>, 55 EUR (the normal procedure for other business entities) or 220 EUR (the urgent procedure for other business entities)<sup>23</sup>. Fees for the issuance of certificates are equally applied to CSOs and commercial entities.

While financial reporting requirements are subject to similar provisions, in contrast to CSOs, business entities are not required to submit annual activity reports. Failure to submit this report may serve as a reason for termination for a CSO.

Voluntary termination of a legal entity is preceded by the liquidation procedure, both for commercial entities and CSOs. The liquidation procedure is more complicated and time-consuming and is followed by deletion from the registry which is free of charge and performed within three days. Since 1994, 382 CSOs have voluntarily terminated their existence.

During the focus group discussions, participants pointed out that CSOs are disadvantaged in the competition to provide care giving services using public funds. State institutions prefer to contract private providers and public institutions instead of CSOs for provision of these services. The concept of social order (a form of contracting social services by the state) is provided for in law, but there is no regulatory mechanism to support it. Added to this, the nomenclature of social services is outdated. The framework contract is not adapted to CSOs, and there are no other model agreements that could be used by public authorities. LPAs are hesitant when fixing the prices for care giving services contracts because there is no proper methodology for establishing costs for social services. CSOs' participation in public procurements is hindered by burdensome requirements such as bank certificates (with a 10 per cent guarantee), a certificate of proper performance of the contract (a bank guarantee of a maximum of 15 per cent for the winner of the contract) and

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<sup>21</sup> State Registry of Non-Commercial Organisations, <https://www.asp.gov.md/sites/default/files/date-statistic/RSON.xlsx>.

<sup>22</sup> PSA, <http://asp.gov.md/ro/servicii/persoane-juridice/21/211-3>

<sup>23</sup> PSA, <http://asp.gov.md/ro/servicii/persoane-juridice/21/211>

delayed payment for services. The capacity of CSOs to provide quality services is also an issue.<sup>24</sup>

The State Tax Service operates fewer controls on non-commercial organisations compared to commercial organisations. In the first nine months of 2021, there have been 12,199 controls on commercial organisations and 278 controls on non-commercial organisations (i.e. 7.9 per cent of commercial organisations<sup>25</sup> and 1.9 per cent of non-commercial organisations, therefore 4.2 times less for the latter).

### **Standard II. The state treats all CSOs equally with regard to their establishment, registration, and activities.**

The law<sup>26</sup> stipulates that public authorities should treat all non-commercial organisations equally and should not discriminate against them. Also, the law does not differentiate based on the nationality of a CSO's founders or members, nor does it require the managers of CSOs to be resident in Republic of Moldova, as it was required by the previous law.

However, for at least a decade, state authorities have been applying continuous preferential treatment to three CSOs for persons with disabilities,<sup>27</sup> which receive an annual subsidy from the state budget on the basis of a legal provision.<sup>28</sup> Other CSOs that work with disabled people do not benefit from this support.

As was concluded during the focus groups conducted during the current monitoring, CSOs are also a continued target of smear campaigns and media attacks promoted by political leaders and instigated by affiliated media, bloggers and online 'trolls'. Such attacks have been less intense than in the previous reporting period, however. This negative attitude toward CSOs was specific to the illiberal segment of the political spectrum, which was part of the governing coalition until 2021. During the past year, there have been situations when the most vocal and critical CSOs and activists have been marginalised by public institutions, excluded from the decision-making processes, or their contributions simply ignored.

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<sup>24</sup> APSCF, Baseline study on social services for people with intellectual and psychosocial disabilities and for vulnerable children, 2018, [https://aliantacf.md/wp-content/uploads/2019/04/FSM\\_SSMB\\_Baseline\\_Study\\_Report\\_Executive-summary\\_EN.pdf](https://aliantacf.md/wp-content/uploads/2019/04/FSM_SSMB_Baseline_Study_Report_Executive-summary_EN.pdf).

<sup>25</sup> There are 153,833 active commercial organisations according to the State Registry of Legal Units, <https://asp.gov.md/sites/default/files/date-statistice/Company.xlsx>.

<sup>26</sup> Art. 5(2), Law on Non-Commercial Organisations, 86/2020.

<sup>27</sup> The Society of Invalids of the Republic of Moldova, the Society of the Blind of the Republic of Moldova and the Association of the Deaf of the Republic of Moldova.

<sup>28</sup> Art. 36(2), Law on Social Inclusion of Persons with Disabilities, 60/2012, [https://www.legis.md/cautare/getResults?doc\\_id=110494&lang=ro](https://www.legis.md/cautare/getResults?doc_id=110494&lang=ro).

### Specific recommendations:

- The PSA should develop a modern interoperable State Registry for Legal Units that would integrate CSOs and simplify the registration process. When preparing the technical specifications, the PSA should take into account the perspective of the needs of people with sensory disabilities. The register should also include filters and functionality features that would allow access to other public interest information on CSOs (such as membership, public benefit status, and percentage designation mechanism);
- State institutions should modify existing access protocols to annual subsidies dedicated to persons with disabilities to ensure equitable access and distribution to organisations centred on persons with disabilities;
- The government should adjust the legal framework for public procurements with a legal mechanism for social contracting in order to provide instructions, a standard package of model documents and to remove barriers for CSOs (e.g. bank guarantees);
- Build knowledge and capacity in the Public Procurement Agency and in LPAs in the field of social services contracting;
- Affected CSOs and persons should use legal/judicial tools to claim sanctions against perpetrators who articulate attacks against them; and
- The PSA should adjust registration procedures in order to eliminate de facto fees for registration, such as name availability verification.

## 3.3 Access to Funding

Overall score per area: **5.1 / 7**

Legislation: **5.6 / 7**

Practice: **4.7 / 7**

The situation with access to funding remains the same as for the previous reporting period.

CSOs can use different methods to access various sources of funding, but foreign funding is their main source of income. The subject of foreign funding of CSOs continued to be exploited by illiberal politicians either to stigmatise CSOs or for other political purposes. The Covid-19 pandemic brought financial difficulties for some CSOs due to changes in the priorities of some funding programmes.

**Standard I. CSOs are free to seek, receive, and use financial and material resources for the pursuit of their objectives.**

**CSOs are free to request, receive and use financial and material means, from within the country or from abroad, including public funds, in order to achieve their statutory**



purposes.<sup>29</sup> A CSO can also finance programmes, within the country and abroad, by providing grants, scholarships, material and financial aid. CSOs can also engage in economic activities, including social entrepreneurship.<sup>30</sup>

CSOs can use any legal methods and sources of fundraising, such as international donors, traditional donations, crowd funding, SMS or online donation, a percentage designation mechanism, membership fees, support from the state, support from business entities, and general economic activities.

Access to funding is not subject to government approval, except for in the case of state funding. The requirements for CSOs to receive, use and report funding are subject to the rules of the donor institutions and banking regulations. In 2022, a banking problem for CSO was reported, after Moldovan banks refused to open an account for a CSO legally registered at the PSA but based in the unrecognised breakaway-region of Transnistria.<sup>31</sup>

Most CSOs (including independent investigative media) are dependent on international funding as their main source of financing. Access to funding provided by international donors depends largely on a CSO's experience, size and capacities. The large and experienced CSOs, located in Chişinău, are able to compete for funding more consistently. The most vulnerable CSOs in terms of access to funding are the small CSOs located in rural areas. Largely, they lack the necessary skills and capacities to access and use available funding. One of the key issues is the lack of competent and experienced people working in CSOs, most of whom are either based abroad or concentrated in a few main cities in the country. Nevertheless, over the past couple of years, local CSOs have been the beneficiaries of consistent budgets offered by the major international donors. During the Covid-19 pandemic, medium-sized CSOs also faced financial difficulties due to changes in the priorities and focus of funding programmes.

Other concerns for CSOs include the lack of core support, barriers to providing annual leave payments for employees and other limitations determined by the specific conditions attached to the provided grants. Most financial operations of CSOs are done through banking operations. In this regard, some limitations on their financial operations are determined by AML/CTF legislation. Pursuant to this, CSOs must provide additional documentary justification to banks in order to transfer any refunds to donors abroad.

Although provided for by law, philanthropic activity is complicated by provisions that do not encourage donations from the business and private sectors. The Platform for the Promotion and Development of Philanthropy is the main driving force that

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<sup>29</sup> Arts 3(3) and 7(1)(d), Law on Non-Commercial Organisations, 86/2020.

<sup>30</sup> Art. 6(2), Law on Non-Commercial Organisations, 86/2020.

<sup>31</sup> Public Association Diaspora Romilor 'Cort de pe Nistru' ('Tent over the Dniester').

supports capacity building of CSOs in this field through its work to promote changes in the legal framework for philanthropic activity and sponsorship. A draft amendment to the law, developed by the Platform, is currently being examined by the MoJ.

**Standard II. There is no distinction in the treatment of financial and material resources from foreign and international sources compared to domestic ones.**

CSOs can receive and use funds from abroad and from within the Republic of Moldova without barriers and under the same tax conditions. Additionally, funding provided by international donors that falls within the scope of international treaties that the Republic of Moldova is party to, may be exempt from taxes and customs clearance.<sup>32</sup> International donors remain the most important source of financing for CSOs. Based on the latest available data, between 2017 and 2019, non-commercial organisations from Republic of Moldova reported a total income of roughly 493 million EUR.<sup>33</sup>

The topic of foreign funding of CSOs is the main recurring topic used in attacks against CSOs by political leaders with anti-liberal ideologies and affiliated media and groups. In October 2020, Bogdan Țirdea, a member of the parliament, launched a book entirely dedicated to foreign funding and related alleged conspiracies involving CSOs in which he attacked CSOs that receive foreign funding and are actively involved in promoting human rights, anticorruption and justice reform initiatives.<sup>34</sup> Another leading exponent of anti-CSO rhetoric is the former President of the Republic of Moldova Igor Dodon, who stepped down from political activity in October 2021, only to become head of a CSO,<sup>35</sup> which indicates that anti-foreign funding of CSOs sentiment is only a tool for political PR, and not a fundamental belief of its promoters.

**Specific recommendations:**

- Political leaders and government officials should completely refrain from any attacks and attempts to restrict the work of CSOs that benefit from foreign assistance;
- State institutions should cease attacks and smear campaigns against CSOs in the information space and should apply sanctions to the perpetrators of such attacks;
- CSOs should increase their capacity to raise funds from all available legal sources, aside from solely from international grants;

<sup>32</sup> Government Decision on how to apply the tax and customs facilities related to the implementation of investment and technical assistance projects that fall within the scope of international treaties that the Republic of Moldova is party to, 246/2010, [https://www.legis.md/cautare/getResults?doc\\_id=116618&lang=ro](https://www.legis.md/cautare/getResults?doc_id=116618&lang=ro).

<sup>33</sup> LRCM, 'Non-commercial organisations from the Republic of Moldova in numbers,' 2020, [http://old.crjm.org/wp-content/uploads/2020/11/2020-Doc-analitic-ONC-in-cifre\\_final.pdf](http://old.crjm.org/wp-content/uploads/2020/11/2020-Doc-analitic-ONC-in-cifre_final.pdf)

<sup>34</sup> Bogdan Țirdea, 'Civil society of the Republic of Moldova: sponsors of NGOs, cultural wars', 2020, <https://www.zdg.md/stiri/bogdat-tirdea-a-lansat-o-carte-cu-acuzatii-grave-in-adresa-ong-urilor-si-mass-media-din-moldova-autorul-a-alunecat-in-atacuri-grosolane-la-adresa-societatii-civile-din-moldova/>.

<sup>35</sup> Primul.md, 'Igor Dodon publishes the extract of the registration document of the Association 'Moldovan-Russian Business Union', which he will lead', <https://primul.md/igor-dodon-a-publicat-extrasul-documentului-de-inregistrare-al-asociatiei-uniunea-de-afaceri-moldo-rusa-pe-care-o-va-conduce>.

- CSOs should promote good models and practices for accessing other sources of financing; and
- Parliament should amend the Law No. 1420/2002 on Philanthropy and Sponsorship, especially in relation to the mechanism of tax deductions for donations for philanthropy and sponsorship purposes based on the amendments proposed by the Platform for the Promotion and Development of Philanthropy.

## 3.4 Freedom of Peaceful Assembly

Overall score per area: **5.2 / 7**

Legislation: **5.4 / 7**

Practice: **5.0 / 7**

Freedom of peaceful assembly remains the area that has been most affected in recent years because of restrictions put in place due to the Covid-19 pandemic. However, the situation in this area has seen significant improvements in the current reporting period, owing to the removal of restrictive anti-pandemic measures.

Moldovan law provides every person with the freedom to organise and participate in public assemblies, but this freedom was recently limited by anti-pandemic restrictions. Taking this into consideration, the area of Freedom of Peaceful Assembly underwent the most significant improvement out of all areas analysed which occurred following the lifting of the main restrictions on peaceful assemblies associated with Covid-19. This improvement could however be temporary and remains open to sudden change. The trajectory of the restrictions went from a complete ban on assemblies to no restrictions at all by the autumn of 2021. The official restrictions were often disproportionate and also included physical interventions by law enforcement. There are organisers who still refrain from holding assemblies given the risks posed by Covid-19. Online assemblies are not regulated but there is a growing practice of assembling online. The previous recommendations of the CSO Meter in this area have not been applied by public institutions.

**Standard I. Everyone can freely enjoy the right to freedom of peaceful assembly by organising and participating in assemblies.**

The right to free assembly is guaranteed by the Constitution<sup>36</sup> and the Law on Assemblies provides the effective framework for organising and conducting assemblies.<sup>37</sup> The law defines public assemblies as gatherings held in outdoor public spaces, including in the form of spontaneous, simultaneous assemblies or counter manifestations. The law is not aligned with General Comment No. 37 of the UN Human Rights Committee,<sup>38</sup> therefore it does not regulate assemblies held in private spaces or online, but nor does it prohibit them. Nevertheless, digitally-based

<sup>36</sup> Art. 40, Freedom of Assembly, Constitution of the Republic of Moldova.

<sup>37</sup> Law on Assemblies, 26/2008, [https://www.legis.md/cautare/getResults?doc\\_id=110166&lang=ro](https://www.legis.md/cautare/getResults?doc_id=110166&lang=ro).

<sup>38</sup> General Comment No. 37 (2020) on the right of peaceful assembly (Art. 21), UN Human Rights Committee, <https://digitallibrary.un.org/record/3884725?ln=en>.

assemblies and digitally-mediated assemblies are a common phenomenon as well as assemblies held in private spaces with public access. Spontaneous, simultaneous and counter-assemblies are also allowed by law. Spontaneous assemblies are exempt from a notification procedure. In the case of simultaneous assemblies, LPAs summon organisers to agree on how to divide the public space.

In September 2021, the organiser of a hybrid assembly was sanctioned by the police under the charge of ‘insults made in mass media’<sup>39</sup> for uploading pictures of a protest banner reading ‘Nina go to the trash’ to a Facebook page.<sup>40</sup> The organiser appealed the sanction, which is currently the subject of a court trial. Completely devoid of evidence, this is the first known case of this sanction being applied for a digitally-mediated assembly.

Any person, local or foreign with full exercise capacity, groups of persons or any legal person can organise assemblies. Minors over fourteen years old can organise assemblies only accompanied by a person with full exercise capacity. Anyone can freely and voluntarily participate in or assist at an assembly, as well as record images of it.

Freedom of assembly was one of the most affected rights in the Republic of Moldova during the Covid-19 pandemic. The restrictions imposed by the National Extraordinary Commission for Public Health (CNESP) placed gradual limitations regarding the places where assemblies were allowed, the number of permitted participants (up to fifty), culminating in a complete ban on assemblies during the state of emergency in April 2021.<sup>41</sup> However, protesters did not observe these measures. There were large assemblies<sup>42</sup> protesting against these very measures, and law enforcement did not apply any sanctions but conducted measures to ensure public order. The limitations were uneven and disproportionate, with periods when assemblies were banned while other types of gatherings were allowed.<sup>43</sup> Until December 2021, the CNESP did not have any human rights experts among its membership. Overall, the legitimacy of the CNESP’s decisions is questionable, as they often violated fundamental rights guaranteed by the Constitution, without respecting the hierarchy of legislation.

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<sup>39</sup> Contravention Code of the Republic of Moldova, Art. 69(2), Insult made in mass-media, [https://www.legis.md/cautare/getResults?doc\\_id=113262&lang=ro](https://www.legis.md/cautare/getResults?doc_id=113262&lang=ro).

<sup>40</sup> Promo-LEX Association, Online Public Assemblies Monitoring Report, 2021, <https://promolex.md/21295-raport-de-monitorizare-a-intrunirilor-publice-online/?lang=en>.

<sup>41</sup> Committee for Emergency Situations, Decision No. 1, 1 April 2021, [https://gov.md/sites/default/files/1\\_dispozitia\\_cse\\_01.04.2021.pdf](https://gov.md/sites/default/files/1_dispozitia_cse_01.04.2021.pdf).

<sup>42</sup> Zdg.md, ‘Protest at the Constitutional Court. As High Court magistrates enter deliberations, protesters chant: ‘Anticipated’’, <https://www.zdg.md/stiri/stiri-sociale/live-noi-actiuni-de-protest-la-curtea-constitucionala-alegeri-anticipate/>.

<sup>43</sup> Promo-LEX Association, Digest on Freedom of Public Assembly during the Pandemic, No. 1, 2021, <https://promolex.md/20065-digest-cu-privire-la-libertatea-de-intrunire-pe-timp-de-pandemie-nr-1/?lang=ro>.

During the pandemic, some regular organisers of assemblies (such as the initiative group OccupyGuguță and the LGBT-related information centre GENDERDOC-M) gave up on public assemblies, because of the associated risk of spreading coronavirus and the possible negative public reaction to gatherings. On the other hand, groups affected during the pandemic held assemblies with specific limitations, including physical distancing, lists of participants for epidemiologic purposes and limits on the number of participants.

In 2021, there were cases of arbitrary refusals and dispersals of peaceful assemblies (see standard IV below). During the reporting period there were no reported cases of anyone being forced to participate in or being prohibited from participating in peaceful assemblies, or being sanctioned for doing so or intimidated into not doing so.

### **Standard II. The state facilitates and protects peaceful assemblies.**

Organisers of public assemblies are required to submit to a notification to the relevant LPA at least five days in advance, which is free of charge and processed relatively quickly. Spontaneous assemblies and assemblies with less than fifty participants, as well as online assemblies, do not require notification. In isolated cases, in smaller localities, the notification procedure may be used as de facto authorisation, due to the lack of legal knowledge of both the public administration and the organisers.

Everyone has the right to disseminate information about the holding of an assembly and to encourage the public to attend the assembly by any legal methods.<sup>44</sup> Almost every offline assembly uses online methods for organisation and dissemination purposes, and there have been no reported barriers regarding the use of the internet, virtual tools or other electronic means to organise and disseminate information about assemblies. CSOs have also made use of online assemblies, such as the Solidarity March 'I'm Ok' 2021<sup>45</sup>, which until the Covid-19 pandemic was held as an open-air assembly. There are no reported cases of limitations on internet access being used as a means to restrict peaceful assemblies either online or offline.

A change of conditions for conducting assemblies or their prohibition is the prerogative of the court of law based on clear evidence that the assembly will be unlawful. The legal deadline for court review of notifications of assemblies does not impede the conduct of assemblies.

### **Standard III. The state does not impose unnecessary burdens on organisers or participants in peaceful assemblies.**

LPAs and law enforcement are responsible for maintaining and restoring public order during assemblies, which they provide for free. The procedure for intervention of public authorities in assemblies is provided for in law only for the purposes of

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<sup>44</sup> Art. 13, Notifying the public, Law on Assemblies, 26/2008.

<sup>45</sup> Information centre GENDERDOC-M, <https://m.facebook.com/gdm.md/videos/613002116327745/?refsrc=deprecated&.rdr>.

eliminating violence. Organisers and participants are accountable only for their own actions during the assembly, and generally not for those of others. Organisers could be found accountable for the actions of participants only if a court of law finds that the participants acted upon the organiser's instigation.

LPAs are also obliged to provide services requested by the organiser free of charge, which are usually, for instance, public lighting, cleaning, and access to a power source. The power itself is, however, provided for a cost.

Assemblies are allowed to use any graphical or acoustic means to express ideas and attitudes, as well as to erect temporary constructions and other objects specific to the assembly itself. Everyone has the right to disseminate information about the assembly through offline or online means, even before the submission of the notification to the authorities.

#### **Standard IV. Law enforcement supports peaceful assemblies and is accountable for the actions of its representatives.**

LPAs, the police and the carabineer troops are the public institutions legally empowered to support peaceful assemblies. Their duties, obligations and procedures for intervention are clearly described by law<sup>46</sup> and their gradual involvement is provided for if the assembly should turn violent. Although the legal provisions are in line with a human rights-based approach, such interventions are in practice sometimes at odds with the law, revealing weaknesses in the standard operating procedures of law enforcement. The excessive use of force by law enforcement or a failure to protect participants in peaceful assemblies can lead to disciplinary<sup>47</sup> and penal sanctions.<sup>48</sup>

During the reporting period, there were cases of violations of freedom of assembly. On 16 December 2020, law enforcement applied excessive force and used tear gas against protesting farmers, thus increasing the potential spread of coronavirus through infectious droplets, although the Covid-19 restrictions then in force were clearly aimed at the limitation of the spread of aerosols. On 30 March 2021, law enforcement terminated and dispersed a peaceful assembly that had blocked a highway, by using disproportionate force and by ignoring the prescribed legal procedure of prior warning. Intervening police and carabineers do not wear individual identification markings, making it almost impossible to identify individuals and hold them liable for any violations committed. No law enforcement officer has yet been held accountable in either of the aforementioned situations. On 21 June 2021, the Mayor of Orhei refused permission for a series of assemblies by misinterpreting the anti-pandemic

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<sup>46</sup> Arts 21 and 22, Law on Assemblies, 26/2008 and Law on the Use of Physical Force, Special Means and Firearms, 218/2012, [https://www.legis.md/cautare/getResults?doc\\_id=106326&lang=ro](https://www.legis.md/cautare/getResults?doc_id=106326&lang=ro).

<sup>47</sup> Art. 67, Violation of the Law on Assemblies, Contravention Code of the Republic of Moldova, 218/2008.

<sup>48</sup> Art. 184, Violation of the Right to Peaceful Assemblies, Criminal Code of the Republic of Moldova, 985/2002.

restrictions. As a consequence of the refusal, the Mayor was sanctioned by the National Anticorruption Centre for exceeding his legal competencies.<sup>49</sup>

The use of surveillance devices to police or monitor assemblies is not regulated. State agencies use video monitoring of assemblies, but the regime for the use and preservation of the resulting footage is not clear. The use of surveillance devices other than video for policing and monitoring assemblies has not been reported.

### Specific recommendations:

- LPAs and law enforcement should adopt non-violent and non-intrusive methods and use standard operating procedures when policing peaceful assemblies based on the observance of human rights, including for anti-government assemblies;
- The CNESP should include human rights experts in order to align Covid-19 related decisions to a human rights based approach;<sup>50</sup>
- Police and carabinieri should mark the uniforms of public order officers with visible individual identification numbers;
- LPAs should develop the skills of staff in charge of public assemblies in the fields of legislation, communication, dialogue, mediation and negotiation to facilitate effective assistance of assemblies and communication with both the organisers and law enforcement;
- LPAs and law enforcement should apply legal provisions in a non-discriminatory manner and guarantee the safety and integrity of participants, journalists and peaceful observers, regardless of their social and political affiliation; and
- Police and carabinieri should train staff in order that they know how to apply the provisions of international standards in the field of online assemblies.

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<sup>49</sup> Art. 313, Excessive power or exceeding duties, Contravention Code of the Republic of Moldova, <https://www.facebook.com/photo/?fbid=1293899931048547&set=pcb.1293901514381722>.

<sup>50</sup> Note: The recommendation has been effectively implemented since December 2021, when, following the insistence of CSOs, three human rights experts were invited to CNESP meetings (representative of the Ombudsman, representative of the Council for Preventing and Eliminating Discrimination and Ensuring Equality and representative Promo-LEX Association).

## 3.5 Right to Participation in Decision-Making

Overall score per area: **4.7** / 7

Legislation: **5.2** / 7

Practice: **4.3** / 7

The area of the Right to Participation in Decision-Making fluctuated throughout the reporting period, yet overall it has slightly improved. The related legal framework allows everyone to participate in the decision-making process, but the specific conditions of the Covid-19 pandemic led to limitations on this right. During the short state of emergency, the deadline for responses to access to information requests was doubled. The political crisis and the elections that followed it suspended most legal initiatives during the reporting period. Following the parliamentary elections in July 2021, the attitude of the parliament and government towards cooperation with CSOs in the decision-making process improved, but this was however without any practical consequences for participation tools such as access to information and transparency. The Council of Europe Convention that entered into force in December 2020 is expected to improve the situation in the field of access to public information.

### **Standard I. Everyone has the right to participation in decision-making.**

**Public authorities and legal persons that manage and use public financial resources must consult draft normative and administrative acts that can have an impact on society.<sup>51</sup> The mechanism for public consultation in the decision-making process<sup>52</sup> provides clear steps and tools to engage citizens, CSOs and other interested parties. The transparency of this process is based on the principles of information sharing and ensuring equal participation opportunities for all stakeholders.**

Decisions may be submitted for elaboration and adoption without observing the stages provided for by law, but only as a matter of emergency, in the case of exceptional situations and in cases where documents are adopted by the Central Electoral Commission during an election period.<sup>53</sup> In such cases, the reasons for the urgency and lack of public consultation should be brought to the public's notice within a maximum of ten working days from the adoption of the decision.

Public authorities are obliged to take all necessary measures to ensure the participation of all stakeholders in decision-making.<sup>54</sup> Persons who violate legal transparency provisions<sup>55</sup> can be subject to disciplinary and contravention sanctions.<sup>56</sup> There are no legal remedies in cases of non-compliance with the rules of participation and transparency.

<sup>51</sup> Art. 3, Law on Transparency in Decision-making, 239/2008,

[https://www.legis.md/cautare/getResults?doc\\_id=106638&lang=ro](https://www.legis.md/cautare/getResults?doc_id=106638&lang=ro).

<sup>52</sup> Government Decision on the mechanism for public consultations with civil society in the decision-making process, 967/2016, [https://www.legis.md/cautare/getResults?doc\\_id=119856&lang=ro](https://www.legis.md/cautare/getResults?doc_id=119856&lang=ro).

<sup>53</sup> Art. 14, Law on Transparency in Decision-making, 239/2008.

<sup>54</sup> Art. 7(1), Law on Transparency in Decision-making, 239/2008.

<sup>55</sup> Art. 16(1), Law on Transparency in Decision-making, 239/2008.

<sup>56</sup> Art. 326(1), Violation of the Law on Local Public Administration, Contravention Code of the Republic of Moldova.



The transparency of the decision-making process in the parliament is not subject to the Law on Transparency in Decision-making, and is conducted in accordance with the Parliament Regulation, which does not set out clear rules for public consultations.<sup>57</sup> Although most draft decisions respect the timeframe for public consultation, the parliament has periodically introduced drafts and emergency amendments without public consultation, and this practice has been continued by the newly-elected Parliament in July 2021.<sup>58</sup> The search engine of the parliament webpage is weak and finding specific drafts is difficult without detailed information on them. The annex<sup>59</sup> to the official parliament website contains additional information, but usually one must carry out specific searches in order to find out about hearings and public consultations concerning a draft. The agenda of parliamentary committees is often published only a few hours in advance and the live transmissions of these meetings are not always accessible. In the autumn of 2021, an electronic voting system was introduced in the parliament after several years of unjustified postponements.

There were serious issues regarding participation of CSOs in decision-making before the Covid-19 pandemic. During the pandemic, the consultation process was completely reset, and the participation of CSOs was reduced only to the possibility of providing written feedback to decision-makers. There were some tentative attempts to introduce online meetings, but the format of these is not regulated which makes them unpredictable and unreliable. The political crisis and parliamentary elections in effect suspended most legal initiatives throughout the current reporting period.

CSOs are of the view that, following the parliamentary elections in July 2021, the new parliament and government are more open to cooperation with CSOs than their predecessors. At the local level, however, things have not changed and CSOs still complain about cases in which CSOs that are vocal and critical of the government are excluded from participation processes or are completely ignored. However, there have not been reports of any other kind of repercussions for these organisations.

**Standard II. There is regular, open and effective participation of CSOs in developing, implementing and monitoring public policies.**

The mechanism for public consultation with civil society clearly sets out stages, deadlines and conditions for conducting public consultations in the decision-making process. The mechanism includes methods of consultation such as requesting the opinions of CSOs, permanent or temporary working groups, public debates, public hearings, surveys and other methods that can either be used separately or in combination with each other. Any CSO is free to express its opinion and participate in

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<sup>57</sup> Law for the Adoption of the Parliament Regulation, 797/1996, [https://www.legis.md/cautare/getResults?doc\\_id=111777&lang=ro](https://www.legis.md/cautare/getResults?doc_id=111777&lang=ro).

<sup>58</sup> LRCM, <http://old.crim.org/en/apel-public-organizatiile-societatii-civile-solicita-parlamentului-sa-respecte-transparenta-decizionala/>

<sup>59</sup> Parliament of the Republic of Moldova, <https://multimedia.parlament.md/agenda/>.

the decision-making process on its own without being forced to become part of a consultative body.

Public authorities publish announcements, draft decisions and calls for consultation on the online participation platform (<http://www.particip.gov.md>) which is free to access. In 2021, there were 849 such items on the platform. For comparison, in 2020 there were 1,018 items and, in 2019, 854 articles.<sup>60</sup> The platform does not always provide the necessary documents, information or changes made in the proposed drafts (such as the 'divergences table' which includes suggestions provided by CSOs), nor do authorities offer public feedback on proposals provided by CSOs. The platform is not informative on the whole cycle of decision-making which means that one must also follow webpages of the government and the parliament which makes monitoring difficult, given the lack of systems for tracking the projects and changes. After the failure of the *e-Legislatie* information system<sup>61</sup> (which no longer corresponds to the legal requirements), a new integrated online platform is expected as a tool that would facilitate transparency and participation.

At the local level, the situation is more complicated with most local councils not having transparent decision-making processes and communication tools. There is, however, a positive experience evidenced by three 'Rayon [district] Participation Councils' which established good connections with the related local councils, resulting in better transparency and participation of local communities in decision-making. Local councils have also started to publish agendas and draft decisions on their webpages, have organised public consultations and endorsed proposals that come from CSOs.

The law does not regulate the involvement of CSOs in the implementation, monitoring and evaluation of public policies, but nevertheless an important segment of CSOs has always been actively involved in these stages.

During the pandemic and the political crisis of 2020-2021, a significant number of initiatives were put on hold, making the participation of CSOs difficult and futile.

### **Standard III. CSOs have access to information necessary for their effective participation.**

The right to information is provided for by the Constitution.<sup>62</sup> The relevant legislation clearly stipulates timelines for each step of the decision-making process, including publication of the announcement, publication of the draft decision, consultation with stakeholders, and receipt and examination of recommendations. Public authorities

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<sup>60</sup> Participation Platform, State Chancellery, [https://particip.gov.md/ro/statistics?year=2021&authority\\_id=](https://particip.gov.md/ro/statistics?year=2021&authority_id=).

<sup>61</sup> Bizlaw.md, <https://www.bizlaw.md/2016/11/01/sistemul-informatiional-e-legislatie-cat-a-costat-si-cand-va-fi-implimentat>; Law on Regulatory Acts 100/2017, Art. 22, [https://www.legis.md/cautare/getResults?doc\\_id=105607&lang=ro](https://www.legis.md/cautare/getResults?doc_id=105607&lang=ro).

<sup>62</sup> Art. 34, Right to information, Constitution of the Republic of Moldova.

are entitled to charge<sup>63</sup> for the provision of analytical, summary or original information, but the costs must not exceed the amounts incurred for copying, translating or sending the information.

Although public authorities regularly publish announcements and drafts on the online participation platform, these are not always accompanied by explanatory information.

Public authorities have an obligation to respond to requests for 'official information' within a maximum of fifteen working days.<sup>64</sup> In practice, however, access to public information has been deficient for many years.<sup>65</sup> Public authorities often provide overly-formal, incomplete, delayed or evasive responses, interpret requests as petitions and manage them in a longer timeline and under different regulations,<sup>66</sup> or request excessive payments for the services to be provided. Besides hindering effective participation in decision-making processes, restricting access to information significantly affects investigative journalism. According to a recent survey<sup>67</sup> conducted among journalists, the top three reasons for refusal to provide information used by public authorities were: protection of personal data, protection of commercial secrets and the Covid-19 pandemic. There are cases in which civil servants have been sanctioned for not providing the requested information,<sup>68</sup> but the reasonable suspicion is that it is their superiors who are responsible for not complying with the request, and that it is these functionaries who should be held responsible.

During the state of emergency, in April 2021 the time period for responding to requests for public information was officially doubled.<sup>69</sup> The provision was annulled after two weeks, however, when the Constitutional Court declared the state of emergency unconstitutional.

It is expected that the Council of Europe Convention on Access to Official Documents (entered into force on 1 December 2020)<sup>70</sup> will bring about an improvement of the

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<sup>63</sup> Art. 20, Law on Access to Information, 982/2000,

[https://www.legis.md/cautare/getResults?doc\\_id=108552&lang=ro](https://www.legis.md/cautare/getResults?doc_id=108552&lang=ro).

<sup>64</sup> Art. 16(1), Law on Access to Information, 982/2000.

<sup>65</sup> Freedom House, 'Why access to information is still a problem in the Republic of Moldova,' 2021,

[https://freedomhouse.org/sites/default/files/2020-03/Gotisan\\_Ionel\\_Brief\\_FINAL\\_RO.pdf](https://freedomhouse.org/sites/default/files/2020-03/Gotisan_Ionel_Brief_FINAL_RO.pdf); Independent Journalism Centre(CJI), <https://cji.md/apelul-ong-urilor-de-media-cerem-transparenta-acces-la-informatia-de-interes-public-si-reforme-reale-care-ar-facilita-dezvoltarea-mass-mediiei/>; CPR Moldova, 'Why and how the law on access to information needs to be changed,' 2019, <https://cpr.md/2019/11/26/de-ce-si-cum-trebuie-modificata-legea-accesului-la-informatii/>.

<sup>66</sup> Law on Petitioning, 990/1994, [https://www.legis.md/cautare/getResults?doc\\_id=88154&lang=ro](https://www.legis.md/cautare/getResults?doc_id=88154&lang=ro).

<sup>67</sup> Media Azi, <http://media-azi.md/ro/stiri/accesul-la-informa%C8%9Bie-pestre-20-de-jurnali%C8%99ti-au-indicat-cele-mai-%C3%AEnchise-institu%C8%9Bii-fa%C8%9B%C4%83-de>.

<sup>68</sup> Media Azi, <http://media-azi.md/ro/stiri/polii%C8%9Bia-amendat-o-angajat%C4%83-ministerului-educa%C8%9Biei-pentru-c%C4%83-nu-furnizat-informa%C8%9Bia-solicitat%C4%83>.

<sup>69</sup> CJI, <https://cji.md/ong-urile-de-media-isi-exprima-ingrijorarea-in-raport-cu-dublarea-termenelor-de-solutionare-a-cererilor-de-acces-la-informatie/>.

<sup>70</sup> Council of Europe, <https://www.coe.int/ro/web/chisinau/-/convention-on-access-to-official-documents-enters-into-force-in-the-republic-of-moldova>; <https://www.coe.int/en/web/conventions/full-list?module=treaty-detail&treatynum=205>.

situation regarding access to public information. A set of amendments proposed by CSOs and media experts in 2020,<sup>71</sup> aiming to facilitate access to information of public interest has not yet been taken into consideration by public authorities.

#### **Standard IV. Participation in decision-making is distinct from political activities and lobbying.**

CSOs cannot materially support, nor can they provide free services to political parties or socio-political organisations, except for CSOs founded by political parties, which can provide capacity-building services for free. CSOs are allowed to provide paid services to electoral candidates during an election campaign (as are commercial organisations). This right was confirmed only after the Constitutional Court ruled against the initial wording of the law that included an interdiction in this regard.<sup>72</sup>

Lobbying activities are not legally regulated in the Republic of Moldova. Participation in the design, monitoring, or implementation of public policies is not prohibited by law in any way, and CSOs have no obligation to register or comply with other rules in order to engage in lobbying and advocacy.

#### **Specific recommendations:**

- Parliament should adopt amendments to the legal framework on access to public interest information based on the Council of Europe Convention, for ensure proactive publishing of information (not just on demand) and good internal management to guarantee correct implementation of the legislation;
- Parliament should develop a practical mechanism for holding senior responsible persons accountable for breaking the requirements of transparency and access to information;
- Public institutions should improve transparency and participation in decision-making by developing a unified online platform which would include updated information on legal initiatives at all stages and reflect all changes from launch to adoption;
- Parliament should optimise the system of publishing information on its official website (including adding the option to make comments and to monitor the legal opinions issued by parliamentary committees); and
- Parliament should regulate the transparency of the parliamentary decision-making process by setting certain stages, terms and ways of consulting that are similar to those provided for in the Law on Decision-Making Transparency.

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<sup>71</sup> Association of Independent Press (API), [http://api.md/upload/video\\_sf/Proiect\\_de\\_Lege\\_modificare\\_completare\\_Legea\\_accesul\\_la\\_informatie\\_Legea\\_libertatea\\_exprimare\\_Legea\\_date\\_cu\\_caracter\\_personal\\_si\\_altele\\_final.pdf](http://api.md/upload/video_sf/Proiect_de_Lege_modificare_completare_Legea_accesul_la_informatie_Legea_libertatea_exprimare_Legea_date_cu_caracter_personal_si_altele_final.pdf).

<sup>72</sup> Constitutional Court, Decision 24, 8 October 2020, <https://www.constcourt.md/ccdocview.php?tip=hotariri&docid=745&l=ro>.

## 3.6 Freedom of Expression

Overall score per area: **4.9 / 7**

Legislation: **5.3 / 7**

Practice: **4.6 / 7**

The situation in the area of freedom of expression has remained the same. Everyone is free to express opinions which is a common practice in public in both offline and online spaces. Still, most media institutions are subject to control by business and political groups. Although it is illegal, hate speech is a widespread phenomenon which is rarely sanctioned. Critical and vocal CSOs are usual the targets of smear campaigns led by illiberal politicians. There was no progress made in this reporting period regarding the draft amendments recommended for the legislation on freedom of expression and on crimes motivated by prejudice. In the past couple of years, there has been an emerging practice by the SIS to block webpages labelled as promoting 'fake news', due to the so-called necessity imposed by the state of emergency.

### **Standard I. Everyone has the right to freedom of opinion and expression.**

The Constitution of the Republic of Moldova guarantees<sup>73</sup> freedom of opinion and expression by word, image or any other possible means. Any person (natural or legal) and groups (through the right of each individual) have the right to freedom of expression, including the freedom to seek, receive and communicate facts and ideas.<sup>74</sup> There is no legal barrier to the free use of any media and no one may prohibit or prevent the media from disseminating information of public interest in accordance with the law.<sup>75</sup>

In practice, most important media channels are under the control of political and/or business elites. Free and impartial media is relatively rare. In September 2021, one of the TV channels regarded as impartial was the target of a denigration campaign<sup>76</sup> which reduced its credibility and once again brought to attention the issue of free media in the Republic of Moldova.

There is no evidence of systemic hindering by the state of persons expressing ideas and opinions contrary to official policy, but politicians often sue the authors of statements that scrutinize their activity, which means a lot of wasted time and resources for media institutions. There are also cases of officials making verbal attacks

<sup>73</sup> Art. 32, Freedom of opinion and expression, Constitution of the Republic of Moldova, 1/1994, [https://www.legis.md/cautare/getResults?doc\\_id=111918&lang=ro](https://www.legis.md/cautare/getResults?doc_id=111918&lang=ro).

<sup>74</sup> Art. 3(1), Law on Freedom of Expression, 64/2010, [https://www.legis.md/cautare/getResults?doc\\_id=83916&lang=ro](https://www.legis.md/cautare/getResults?doc_id=83916&lang=ro).

<sup>75</sup> Art. 4(1), Law on Freedom of Expression, 64/2010.

<sup>76</sup> CJI, <https://cji.md/ong-urile-de-media-isi-exprima-ingrijorarea-in-legatura-cu-campania-de-denigrare-a-echipei-tv8-si-transmit-un-mesaj-de-solidaritate-pentru-toti-jurnalistii-care-isi-fac-onest-meseria/>.

and threats on social media. A resonant case was the threat from the Mayor of Chişinău that he would ‘break the teeth’ of a journalist.<sup>77</sup>

Deliberate actions aimed at inciting national, ethnic, racial or religious strife or division constitute a criminal offence.<sup>78</sup> Hate speech in various forms is forbidden under different legal provisions.<sup>79</sup> In their efforts to improve the legal framework concerning hate speech, CSOs have submitted recommendations<sup>80</sup> on the incrimination of crimes motivated by prejudice<sup>81</sup> regarding the definition of grounds for prejudice, and the review of offences and aggravating circumstances involving acts of hatred and prejudice.<sup>82</sup> The draft has been at the debate stage in parliament since 2016, but should could come to a conclusion in the current session.

Hate speech is not usually sanctioned due to the ambiguous nature of the related legislation and a failure on the part of the competent authorities to understand the phenomenon. In June 2021, the Council of Europe published a document entitled ‘*Combating Hate Speech in the Media in the Republic of Moldova - Guide for assessing and processing hate speech cases*,’<sup>83</sup> but the Audiovisual Council of the Republic of Moldova declined to approve it.

The notions of ‘fake news’ or ‘false news’ are not defined in legislation, but they served as the reason for the SIS to block some sixty webpages in 2020 as part of the fight against pandemic-related disinformation. In 2021, the SIS made other requests to block webpages for alleged fake news regarding gas supplies to the Republic of Moldova,<sup>84</sup> based on parliament’s decision to introduce a state of emergency in

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<sup>77</sup> Zdg.md, <https://www.zdg.md/stiri/stiri-diverse/amenintari-cu-bataia-si-insulte-adresate-de-primarul-general-al-chisinaului-ion-ceban-vloggerului-andrei-bolocan/>.

<sup>78</sup> Art. 346, Criminal Code of the Republic of Moldova.

<sup>79</sup> Art. 32(3) of the Constitution of the Republic of Moldova; Art. 2, Law on Freedom of Expression, 64/2010; Art. 2, Law on Equality, 121/2012; Art. 2 of the Law on Gender Equality, 5/2006; Art. 54, Violation of the legislation on religious groups; Art. 69, Insults and Art. 354, Disorderly conduct, Contravention Code.

<sup>80</sup> Promo-LEX Association, <https://promolex.md/16847-apel-public-organizatiile-societatii-civile-solicita-fractiunilor-parlamentare-sa-accepte-amendamentele-la-proiectul-de-lege-nr-301-cu-privire-la-sanctionarea-faptelor-motivate-de-ura-si-prejudicata/?lang=ro>.

<sup>81</sup> Draft Law No. 301,

<http://parlament.md/ProcesulLegislativ/Proiectedeacteleislative/tabid/61/LegislativId/3349/language/ro-RO/Default.aspx>.

<sup>82</sup> Promo-LEX Association, ‘Hate speech and incitement to discrimination in the public space and media in the Republic of Moldova during the electoral campaign for the early parliamentary elections of July 11, 2021,’ 2021,

[https://promolex.md/wp-content/uploads/2021/09/Raport\\_Discurs\\_de\\_ur%C4%83\\_%C3%AEn\\_perioada\\_electoral%C4%83\\_alegerile\\_parlamente\\_anticipate\\_2021.pdf](https://promolex.md/wp-content/uploads/2021/09/Raport_Discurs_de_ur%C4%83_%C3%AEn_perioada_electoral%C4%83_alegerile_parlamente_anticipate_2021.pdf).

<sup>83</sup> Council of Europe, ‘Combating Hate Speech in the Media in the Republic of Moldova - Guide for assessing and processing hate speech cases,’ <https://www.coe.int/en/web/inclusion-and-antidiscrimination/-/a-practical-guide-for-assessing-and-processing-the-hate-speech-cases-will-strengthen-the-capacity-of-the-audio-visual-council-of-moldova-to-monitor-an>.

<sup>84</sup> Diez.md, <https://diez.md/2021/10/24/sis-a-solicitat-blocarea-unui-site-pentru-ca-a-publicat-informatii-false-despre-aprovizionarea-cu-gaz-a-republicii-moldova/>; Newsmaker.md, <https://newsmaker.md/rus/novosti/sib-zablokiruet-tri-portala-za-feykovyev-novosti-o-gazovom-krizise/>.

relation to energy resources.<sup>85</sup> However, no person was sanctioned for promoting the alleged fake news.

### **Standard II. The state facilitates and protects freedom of opinion and expression.**

Individuals and CSOs use online resources and other means of communication to publish content and express opinions that are not subject to regulations applicable to media. Censorship, as well as the creation of public authorities for the control of information to be disseminated by the media, is prohibited.<sup>86</sup> The law also protects the confidentiality of journalists' sources of information.<sup>87</sup> There were no reported cases of media being blocked, or of media organisations being searched or raided.

The law also protects whistle-blowers,<sup>88</sup> but in the few known cases of whistle-blowing, the legislative protections were not effective.

The deliberate dissemination of defamatory and deceitful information (defamation) is an administrative offence,<sup>89</sup> usually applied by under-qualified police officers. State officials and politicians often claim sanctions and initiate costly and time-consuming civil court cases to defend their 'honour and reputation' against alleged defamation from journalists (also known as strategic lawsuits against public participation or SLAPPs) which discourage freedom of expression. In October 2021, the European Court of Human Rights found that a violation of freedom of expression had occurred in a SLAPP brought against an investigative journalism CSO that lasted for five years.<sup>90</sup>

In 2020, CSO and media experts developed a draft<sup>91</sup> amending the laws on freedom of expression,<sup>92</sup> which aimed at facilitating access to information of public interest, access of journalists to personal data of public interest, introducing new terminology, eliminating defamation from the Contravention Code and shifting the power to review violations in this area from the police to the Prosecutor General's Office. The proposed amendments have been included in the government Action Plan for 2022.

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<sup>85</sup> Decision No. 148 from 22 October 2021 on declaring a state of emergency, [https://www.legis.md/cautare/getResults?doc\\_id=128290&lang=ro](https://www.legis.md/cautare/getResults?doc_id=128290&lang=ro).

<sup>86</sup> Art. 34(5), Constitution of the Republic of Moldova; Art. 1(2), Law on Press, No 243/1994; Art. 5, Law on Freedom of Expression, 64/2010.

<sup>87</sup> Art. 13, Law on Freedom of Expression, No 64/2010; Art. 18, Non-disclosure of information source; Law on Press 243/1994, [https://www.legis.md/cautare/getResults?doc\\_id=109428&lang=ro](https://www.legis.md/cautare/getResults?doc_id=109428&lang=ro).

<sup>88</sup> Law on Whistle-blowers, 122/2018, [https://www.legis.md/cautare/getResults?doc\\_id=105486&lang=ro](https://www.legis.md/cautare/getResults?doc_id=105486&lang=ro).

<sup>89</sup> Art. 70, Defamation, Contravention Code.

<sup>90</sup> Case of Association of Investigative Reporters and Editorial Security of Moldova and Sanduța v. the Republic of Moldova, <https://www.rise.md/rise-moldova-vs-dodon-cedo-pune-un-stegulet-rosu-asupra-justitiei-din-moldova/>.

<sup>91</sup> API,

[http://api.md/upload/video\\_sf/Proiect\\_de\\_lege\\_modificare\\_completare\\_Legea\\_accesul\\_la\\_informatie\\_Legea\\_libertatea\\_exprimare\\_Legea\\_date\\_cu\\_caracter\\_personal\\_si\\_altele\\_final.pdf](http://api.md/upload/video_sf/Proiect_de_lege_modificare_completare_Legea_accesul_la_informatie_Legea_libertatea_exprimare_Legea_date_cu_caracter_personal_si_altele_final.pdf).

<sup>92</sup> CPR, 'Why and how should the Law on access to information should be changed?', 2019,

<https://cpr.md/2019/11/26/de-ce-si-cum-trebuie-modificata-legea-accesului-la-informatii/?fbclid=IwAR1DpiCAFDiIXrVVuL85Mze2wtHTLbZBH1e6VJZJc6wHtIAFc0ku09qYM>.

### Specific recommendations:

- Parliament should amend the legislation on freedom of expression based on the draft amendments prepared by CSOs and media experts;<sup>93</sup>
- Parliament should pass the Draft Law No. 301/2016 on the incrimination of crimes motivated by prejudice in the final reading, with the amendments proposed by CSOs at the end of 2019;
- Specialised state institutions should develop practical tools and mechanisms to prevent and sanction hate speech, including hate speech originating from state officials;
- The Audiovisual Council should apply sanctions to media outlets that violate ethical standards and legislation relevant to journalism; and
- The government should adopt a functional mechanism implementing legislation to protect whistle-blowers.

## 3.7 Right to Privacy

Overall score per area: **4.4 / 7**

Legislation: **5.3 / 7**

Practice: **3.4 / 7**

The situation in the area of right to privacy has remained the same. The legal framework provides for the protection of privacy and personal data, but this protection is not always offered in practice. A recent case of the public disclosure of personal and confidential data of activists by the Prosecutor General confirms the precarious state of the protection of privacy. In addition, the Prosecutor General's Office is not transparent regarding the ways that means of surveillance and wiretapping are used.

### Standard I. Everyone enjoys the right to privacy and data protection.

The right to privacy, family and private life, home and correspondence is protected by the Constitution of the Republic of Moldova<sup>94</sup> for anyone and cannot be subject to arbitrary or illegal interference, in either a physical or a virtual environment.<sup>95</sup>

Personal data is protected under a dedicated law,<sup>96</sup> which regulates the processing, storing and use of personal data. CSOs are entitled to handle personal data and are

<sup>93</sup> API,

[http://api.md/upload/video\\_sf/Proiect\\_de\\_lege\\_modificare\\_completare\\_Legea\\_accesul\\_la\\_informatie\\_Legea\\_libertatea\\_exprimare\\_Legea\\_date\\_cu\\_caracter\\_personal\\_si\\_altele\\_final.pdf](http://api.md/upload/video_sf/Proiect_de_lege_modificare_completare_Legea_accesul_la_informatie_Legea_libertatea_exprimare_Legea_date_cu_caracter_personal_si_altele_final.pdf).

<sup>94</sup> Constitution of the Republic of Moldova, Art. 28, Intimate, family and private life; Art. 29, Inviolability of the home; Art. 30, The privacy of correspondence.

<sup>95</sup> Criminal Code of the Republic of Moldova, Art. 177, Violation of Privacy; Art. 178, Violation of the Right to Privacy of Correspondence; Art. 179, Inviolability of the Domicile; Art. 193, Trespassing; Art. 197, Deliberate Destruction or Damaging of Goods; Art. 2601, Illegal Interception of an Information Data Transfer.



subject to the same obligations and requirements as other legal persons. Monitoring and control of compliance with the relevant legislation is the duty of the National Centre for Personal Data Protection.<sup>97</sup> Violations of privacy entail sanctions for contravention.<sup>98</sup>

There are CSOs that take precautions for the protection of information, beyond personal data regulations, such as by using encryption and special software, but the majority of CSOs do not take precautions due to lack of capacity and a sense of vulnerability. There are no proven violations of privacy by state authorities, but media leaks often suggest that public institutions do commit such violations, but these are not duly investigated and sanctioned. One of the recent leaks evidenced law enforcement officers staging a rape case on behalf of a public figure.<sup>99</sup>

#### **Standard II. The state protects the right to privacy of CSOs and associated individuals.**

The state provides protection for the private data held by legal persons. Personal data stored and processed by CSOs is subject to specific legal procedures.<sup>100</sup> In order to handle personal data, a CSO is required to register as a personal data operator. Reports submitted by CSOs are compliant with personal data protection legislation and they do not affect the privacy of members, donors, board members and employees or the confidentiality of their personal assets.

Searches of offices or homes are possible only following the issuing of a court warrant or following an urgent exceptional procedure, but only on grounds prescribed by the penal procedure.<sup>101</sup> There were no reported cases of the authorities breaking into CSOs' offices or accessing CSOs' documents.

Surveillance is legally possible as part of a criminal investigation but only upon authorisation of the investigative judge at the prosecutor's request.<sup>102</sup> Criminal procedure<sup>103</sup> provides guarantees against surveillance-related abuses, including for CSOs or associated individuals. Nevertheless, the Prosecutor General's Office has confirmed<sup>104</sup> the illegal collection of information about the private lives of over fifty

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<sup>96</sup> Law on Personal Data Protection, 133/2011, [https://www.legis.md/cautare/getResults?doc\\_id=10607&lang=ro](https://www.legis.md/cautare/getResults?doc_id=10607&lang=ro).

<sup>97</sup> National Centre for Personal Data Protection (CNPDCP), <https://datepersonale.md/en/>.

<sup>98</sup> Contravention Code Art. 741, Personal data processing with violation of the law on personal data protection; Art.742, The refusal to provide information or deny access to the staff of the National Centre for Personal Data Protection; Art. 743, Failure to implement the decisions of the National Centre for Personal Data Protection.

<sup>99</sup> Replica Media, <https://replicamedia.md/ro/article/pBwPDZoxP/ultima-ora-video-cum-era-instruita-victim-a-violului-lui-gheorghe-petic-acesta-i-l-pui-in-coniac-acesta-i-l-pui-in-injectie.html>.

<sup>100</sup> Law on Personal Data Protection, No 133/2011.

<sup>101</sup> Section 4, Searching and picking up objects and documents, Criminal Procedure Code, 122/2003, [https://www.legis.md/cautare/getResults?doc\\_id=126190&lang=ro#](https://www.legis.md/cautare/getResults?doc_id=126190&lang=ro#).

<sup>102</sup> Chapter III, Criminal Procedure Code, Law on Special Investigation Activity, No 59/2012, [https://www.legis.md/cautare/getResults?doc\\_id=110235&lang=ro](https://www.legis.md/cautare/getResults?doc_id=110235&lang=ro).

<sup>103</sup> Criminal Procedure Code, Art. 7, Legality of Criminal Procedures; Art. 8, Presumption of Innocence; Art. 9, Equal Protection of the Law; Art. 10, Observance of Human Rights, Freedoms, and Dignity; Art. 11, Inviolability of a Person; Art. 12, Inviolability of a Domicile; Art. 13, Inviolability of Property; Art. 14, Privacy of Correspondence; Art. 15, Inviolability of Private Life.

<sup>104</sup> Prosecutor General of the Republic of Moldova, <http://www.procuratura.md/md/news/1211/1/8269/>.

persons in the so-called ‘case of illegal surveillance and interception of opposition representatives, civic activists and journalists,’ in which special technical means of investigation were used for secretly obtaining information, as well as violations of the right to secrecy of telephone conversations. In October 2021, the Prosecutor General<sup>105</sup> himself publicly disclosed confidential data in a criminal case and personal data extracts from private conversations of CSO activists, confirming once again the absence of protection of privacy in CSOs’ online and mobile communications. This occurrence also confirms that state institutions are likely to use technological means to wiretap and surveil CSO activists, the legality of which is doubtful.

#### Specific recommendations:

- The Prosecutor General’s Office should guarantee transparency of information about the use of special means of interception and surveillance investigations;
- The Prosecutor General’s Office should ensure that investigating judges inform post-factum wiretapped persons every single case of interception; and
- The competent bodies should investigate the unlawful interference with private life in electronic communications, data storage and surveillance systems, etc. and should apply sanctions to persons who disclose private information.

## 3.8 State Duty to Protect

Overall score per area: **4.5 / 7**

Legislation: **5.0 / 7**

Practice: **4.1 / 7**

The situation in this area has remained the same. The state has the obligation to protect its citizens and also respects, protects and ensures freedom of association. CSOs and associated individuals have access to effective complaint and appeal mechanisms in court. During the Covid-19 pandemic, the state of emergency was used to create a basis for preventing measures and restrictions, but the state failed to put in place a coherent and credible mechanism to protect the population using a human rights-based approach. Public institutions are not regarded as institutions that could provide effective protection. There is no evidence that responsible bodies investigate illegal interference with private life. The SIS conducted an assessment of the CSO sector in order to identify the categories of organisations vulnerable to being used for the financing of terrorism, but it is not publicly available.

<sup>105</sup> Prosecutor General of the Republic of Moldova, <http://procuratura.md/file/societatea%20civila.pdf>.

## Standard I. The state protects CSOs and individuals associated with CSOs from interference and attacks.

The Constitution sets out the obligation of the state to protect its citizens.<sup>106</sup> The life, integrity, health, freedom, property and other legitimate rights of the citizens and community are protected by law,<sup>107</sup> with both positive and negative obligations placed on state institutions. The state respects, protects and ensures freedom of association.<sup>108</sup> CSOs are free to decide their internal structure, objectives and activities<sup>109</sup> and they cannot be obliged to accept new members.<sup>110</sup> The state may intervene in the activities of CSOs only if it is a necessary measure in a democratic society to ensure national security, public safety, law enforcement or the prevention of crime, or the protection of the health, morals, rights and freedoms of others.<sup>111</sup>

CSOs or associated individuals can challenge in court the decisions affecting the exercise of freedom of association such as the refusal to register,<sup>112</sup> the decision to suspend the CSO's activity,<sup>113</sup> or the refusal to attribute public utility status.<sup>114</sup> CSOs can also contest in court decisions affecting other rights such as a judgment prohibiting or changing the conditions of an assembly,<sup>115</sup> a refusal of access to information,<sup>116</sup> freedom of expression<sup>117</sup> and other particular rights provided by specific laws. CSOs can also represent beneficiaries whose rights were violated in court and conduct strategic litigation.

Public institutions have the obligation to intervene through competent authorities in order to protect CSOs and associated individuals from attacks and interference on the part of third parties or state bodies' representatives. CSOs and associated persons are the targets of constant smear campaigns conducted by politicians and affiliated media. So far, there has been no effective interventions from public institutions addressing this issue. CSOs have access to justice and have taken these issues to the courts, but it is not common practice for these kind of attacks to be addressed in court, especially considering the judiciary which is perceived by society as politically dependent, severely affected by corruption and acting mainly in the interests of corporations.<sup>118</sup> In 'case of illegal surveillance and interception of opposition

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<sup>106</sup> Art. 18, Protection of the Citizens of the Republic of Moldova, Constitution of the Republic of Moldova.

<sup>107</sup> Art. 18, Law on Police, 320/2012; Art. 22, Law on General Inspectorate of Carabineers, 219/2018; Art. 1, Law on the Prosecutor's Office, 3/2016.

<sup>108</sup> Art. 5(1), Law on Non-Commercial Organisations, 86/2020.

<sup>109</sup> Art. 3(2), Law on Non-Commercial Organisations, 86/2020.

<sup>110</sup> Art. 7(4), Law on Non-Commercial Organisations, 86/2020.

<sup>111</sup> Art. 5(11), Law on Non-Commercial Organisations, 86/2020.

<sup>112</sup> Art. 13(13), Law on Non-Commercial Organisations, 86/2020.

<sup>113</sup> Art. 16(4), Law on Non-Commercial Organisations, 86/2020.

<sup>114</sup> Art. 25(6), Law on Non-Commercial Organisations, 86/2020.

<sup>115</sup> Art. 15, Law on Assemblies, 26/2008.

<sup>116</sup> Art. 22, Law on Access to Information, 982/2000.

<sup>117</sup> Chapter II, Law on Freedom of Expression, 64/2010.

<sup>118</sup> LRCM, Summary of discussions of the Forum from 2020 on Justice and Anticorruption, 2020, <http://old.crim.org/wp-content/uploads/2020/12/Sumar-Forum-Justitie-Anticoruptie-2020-EN.pdf>.

representatives, civic activists and journalists,'<sup>119</sup> the court case seems to be evolving in the direction of sanctioning the executors<sup>120</sup> of the wiretapping and not the higher-ranked decision-makers who ordered it.

The proactive protection provided by the state to CSOs was most visible in past years at public assemblies, but during the Covid-19 pandemic this state-CSO interaction has significantly decreased.

The public health state of emergency declared due to the Covid-19 pandemic was the legal basis for restrictions that were periodically revised. The restrictions affected human rights, specifically freedom of assembly, the right to access to information and freedom of movement as described in the dedicated areas of this report. The CNESP, responsible for decision-making regarding the anti-pandemic restrictions consisted mostly of government officials, and their decisions have been criticised as incoherent and sometimes disproportionate. In September 2021, membership of the CNESP was extended to public health experts, including a CSO representative. Until November 2021, human rights experts were not invited to take part in the CNESP's meetings.<sup>121</sup>

**Standard 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 state can establish rules for CSOs for the purposes of AML/CTF only to the extent that these rules are in line with international human rights standards.<sup>122</sup> AML/CTF laws<sup>123</sup> and anti-corruption laws<sup>124</sup> do not contain provisions which directly restrict or impede CSOs from carrying out their legitimate activities or enjoying their fundamental freedoms, nor do they restrict or infringe the rights of their employees and donors. CSOs are affected by these regulations as they must submit statements on the beneficial owner of the legal entity,<sup>125</sup> identified as the manager of the CSO's funds. However, in reality, this person is not the beneficial owner of the CSO, thus the lexical requirement of the law does not follow the logic of the notion as it does for business entities. AML measures also further affect CSOs because they have to provide additional supporting documents (such as project documentation or any other evidential documents requested) to commercial banks for outgoing international transfers.

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<sup>119</sup> Prosecutor General of the Republic of Moldova, <http://www.procuratura.md/md/news/1211/1/8269/>.

<sup>120</sup> Prosecutor General of the Republic of Moldova, [http://procuratura.md/md/news/1211/1/8727/?fbclid=IwAR1x8HnklSVDwxHoyQ887aFRXsM\\_hllj1SKOe44e6-F7yMFMfPrf0Ayfg8](http://procuratura.md/md/news/1211/1/8727/?fbclid=IwAR1x8HnklSVDwxHoyQ887aFRXsM_hllj1SKOe44e6-F7yMFMfPrf0Ayfg8).

<sup>121</sup> Moldovan National Platform – Eastern Partnership Civil Society Forum, <https://www.eap-csf.md/declaratia-privind-abordarea-bazata-pe-drepturile-omului-in-hotararile-cnesp/>.

<sup>122</sup> Art. 5(10), Law on Non-Commercial Organisations, 86/2020.

<sup>123</sup> Law on Preventing and Combating Money Laundering and Terrorism Financing, No. 308/2017.

<sup>124</sup> Integrity Law, No. 82/2017, [https://www.legis.md/cautare/getResults?doc\\_id=120706&lang=ro](https://www.legis.md/cautare/getResults?doc_id=120706&lang=ro).

<sup>125</sup> Arts 5 and 14, Law on Preventing and Combating Money Laundering and Terrorism Financing, 308/2017.

In 2020,<sup>126</sup> the SIS carried out an assessment of the non-profit sector in order to identify the categories of organisations vulnerable to being used for terrorism financing. Despite transparency requirements, the assessment was conducted in secret, without CSO participation, and the conclusions and recommendations were not made public. In 2021, the same institution was responsible for the development of an action plan to minimize the identified risks and to continuously monitor the sector from the perspective of the assessment performed and the risks identified. So far, no results from these actions have been disclosed, despite an appeal addressed to the SIS by CSO representatives.

During 2020-2021, there were no reported cases of CSOs being affected by claims of a connection with extremism, terrorism financing, money laundering or corruption. At the same time, at least one CSO (Amnesty International Moldova) had its bank accounts blocked in December 2021 on the grounds that it had not submitted all the documents regarding its beneficial owner, even though all the required documents had in fact been submitted. The bank accounts were subsequently unblocked after a notification from the National Bank.

#### Specific recommendations:

- The SIS should provide transparency in the process of assessment and monitoring of the vulnerabilities of CSOs for terrorism financing and allow participation of CSOs in the process of identifying measures to address the identified issues;
- The relevant competent bodies should apply effective prevention and protection measures in all dangerous situations to which CSOs and their representatives are exposed (e.g., illegal wiretapping, cyberattacks, privacy violation, online attacks, etc.); and
- Parliament should review the lexical meaning and the logic of the notion of a CSO's beneficial owner, as provided for by the Law on Preventing and Combating Money Laundering and Terrorism Funding.

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<sup>126</sup> National Strategy for Preventing and Combating Money Laundering and Terrorism Financing 2020-2025, Actions 4.2.7-4.2.10, [https://www.legis.md/cautare/getResults?doc\\_id=125264&lang=ro](https://www.legis.md/cautare/getResults?doc_id=125264&lang=ro).

## 3.9 State Support

Overall score per area: **4.2 / 7**

Legislation: **4.6 / 7**

Practice: **3.9 / 7**

In the area of state support, there have been both negative and positive minor developments. The revenues from the percentage designation mechanism increased and returned to their pre-pandemic upward trend. Lawyers, notaries, bailiffs and mediators were granted the possibility to make percentage designations. The Certification Commission for public benefit status has not been functional for over a year, and many CSOs lost their benefits because they were not able to extend their status. A new regulation was adopted that allows subsidisation of taxes for social enterprises that employ people with disabilities. A draft regulation for a uniform mechanism of financing CSOs from the state budget (recommended in previous reports) elaborated on in 2020 is currently pending in government as are the amendments to the law on philanthropy and sponsorship.

### **Standard I. There are a number of different and effective mechanisms for financial and in-kind state support to CSOs.**

State funding can be provided to CSOs through different mechanisms<sup>127</sup> such as non-reimbursable financing, contracting of works and services or through special purpose financing, including social order, percentage designation, and direct subsidies to CSOs.<sup>128</sup> Resources allocated for this purpose are provided for in the state budget and in the budgets of the administrative-territorial units. In-kind support granted by the state is achieved mainly by offering the right to use public property either free of charge or on preferential terms.<sup>129</sup>

A study from 2020 shows<sup>130</sup> that 60 per cent of all registered non-commercial organisations provide financial reports, but only about 18 per cent of CSOs reported annual income. The total amount of reported income was approximately 182 million EUR in 2019. For comparison, the resources allocated from the state budget to CSOs in 2019 was around 3 million EUR.<sup>131</sup> In the same year, the total contribution of CSOs to the state budget via personal income taxes was 99 million EUR. International donors

<sup>127</sup> State Budget Law, Law on Public Procurements, No 131/2015; Law on Public-Private Partnership, No 179/2008; Government Decision Approving Some Measures to Support Youth Activities, No 1213/2010; Framework Regulation on Organisation and Implementation of the Grants Programme for Youth Organisations and National/Local Project Contest for Youth Initiative Groups; Regulation on state budget funding of cultural projects implemented by civic associations, adopted by Government Decision No 834/2014; Order of the Minister of Youth and Sports Approving the Framework Regulation on Organisation and Implementation of the Grants Programme for Youth Organisations and National/Local Project Contest for Youth Initiative Groups; Regulation on organisation and implementation of the Small Grants Programme in the field of active ageing.

<sup>128</sup> Art. 5(4), Law on Non-Commercial Organisations, 86/2020.

<sup>129</sup> Art. 5(6), Law on Non-Commercial Organizations, 86/2020.

<sup>130</sup> LRCM, Non-commercial organisations of the Republic of Moldova in numbers, 2020, [http://old.crjm.org/wp-content/uploads/2020/11/2020-Doc-analitic-ONC-in-cifre\\_final.pdf](http://old.crjm.org/wp-content/uploads/2020/11/2020-Doc-analitic-ONC-in-cifre_final.pdf)

<sup>131</sup> IVC Moldova, 'Direct State Funding to CSOs in the Republic of Moldova', 2019, [http://ivcmoldova.org/wp-content/uploads/2019/12/PPP\\_Finatarea-OSC\\_Liliana-PALHOVICI.pdf](http://ivcmoldova.org/wp-content/uploads/2019/12/PPP_Finatarea-OSC_Liliana-PALHOVICI.pdf).

remain the main source of income for CSOs, while state support is only able to cover a small part of their basic needs.

In 2021,<sup>132</sup> Moldovan CSOs' income from the percentage designation mechanism increased by 53 per cent, with a total amount of over 454,000 EUR received for 665 beneficiaries.<sup>133</sup> During the previous year (2020), the income of CSOs from the mechanism decreased by 17 per cent, probably because of the Covid-19 pandemic which prevented taxpayers from completing the procedure. In 2021, the number of contributors who used the mechanism (34,805) represented 20 per cent of the total number of taxpayers who filed their income tax returns (32 per cent of whom submitted the form online). In 2020, there were 28,506 contributors who used the mechanism representing 17.5 per cent of the total number of taxpayers who filed their income tax returns. In 2021, lawyers, notaries, bailiffs and mediators were granted the possibility to make percentage designations, after the income tax return form filed by these categories of persons (DAJ17) was modified to include a field regarding the designation of 2 per cent, as in the standard form for natural persons (CET18).

A concern related to the designation mechanism is that the largest part of the allocated amounts (43 per cent from 2017-2019)<sup>134</sup> are directed to CSOs related to state institutions, such as the Association of Veterans and Pensioners of the Ministry of Internal Affairs, the Association of Veterans and Pensioners of the State Tax Service, and the Association of Prosecutors.

CSOs can operate social enterprises based on amendments<sup>135</sup> to the regulations on entrepreneurship and enterprises in force since 2018. Social entrepreneurship is still struggling to grow with only four social enterprises currently officially registered. The necessary changes to the regulatory framework proposed<sup>136</sup> by CSOs have not yet found an official resolution. The only legal change in the current reporting period in this area is the regulation that allows subsidisation of taxes for social enterprises that employ people with disabilities.<sup>137</sup> Another set of amendments concerning social entrepreneurship was initiated in parliament.<sup>138</sup> The draft National Programme for the

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<sup>132</sup> State Fiscal Service, <https://sfs.md/ro/stiri/rezultatele-desemnarii-procentuale-pentru-anul-2021>

<sup>133</sup> PSA, <https://www.asp.gov.md/ro/informatii-utile/lista-beneficiarilor-desemnarii-procentuale>

<sup>134</sup> LRCM, 'Frame stop: three years of implementation of the 2% mechanism in the Republic of Moldova', 2020, [http://old.crim.org/wp-content/uploads/2021/07/EN\\_Trei-ani-de-implementare-a-mecanismului-2\\_print.pdf](http://old.crim.org/wp-content/uploads/2021/07/EN_Trei-ani-de-implementare-a-mecanismului-2_print.pdf).

<sup>135</sup> Law on Amendments and Addenda to Some Legal Acts, No 223/2017, [https://www.legis.md/cautare/getResults?doc\\_id=101472&lang=ro](https://www.legis.md/cautare/getResults?doc_id=101472&lang=ro).

<sup>136</sup> Social Entrepreneurship Initiative, [http://www.antreprenoriatsocial.md/media/files/Propuneri\\_Program%20national%20antreprenariat%20social\\_Nr\\_9\\_82\\_MEI\\_2020.pdf](http://www.antreprenoriatsocial.md/media/files/Propuneri_Program%20national%20antreprenariat%20social_Nr_9_82_MEI_2020.pdf);

[http://www.antreprenoriatsocial.md/media/files/Demers\\_MEI\\_recomandari\\_PlanAS\\_19012021\\_semnat.pdf](http://www.antreprenoriatsocial.md/media/files/Demers_MEI_recomandari_PlanAS_19012021_semnat.pdf).

<sup>137</sup> Government Decision for the approval of the Regulation on subsidising jobs, 49/2021, [https://www.legis.md/cautare/getResults?doc\\_id=126874&lang=ro](https://www.legis.md/cautare/getResults?doc_id=126874&lang=ro).

<sup>138</sup> Draft initiative on social enterprises, <https://alaiba.md/wp-content/uploads/2021/04/Proiect-de-lege-1%CC%82ntreprinderi-Sociale.pdf>.

Development of Social Entrepreneurship 2021-2025<sup>139</sup> was abandoned by the new government, but could be integrated in an eventual national economic development strategy. Starting in 2022, social entrepreneurship initiatives will be offered mentorship and financing<sup>140</sup> through a government-supported programme.

The participation of CSOs in public procurement procedures is burdensome given the reasons described in the Equal Treatment section (3.2) above, and these put CSOs at a disadvantage compared to commercial entities. Currently, there are only three social services procured annually by Central Public Administrations (CPAs) from CSOs, all three being free hotline assistance (for children,<sup>141</sup> female victims of domestic violence<sup>142</sup> and persons with disabilities).<sup>143</sup> There is also one positive example at the local level, where the mobile team service of a local CSO<sup>144</sup> was contracted by the Criuleni Local Council.

#### **Standard II. State support for CSOs is governed by clear and objective criteria and allocated through a transparent and competitive procedure.**

Financial support provided by public authorities should follow a public tender and should be guided by the principles of dialogue, transparency, simplicity and clarity of procedures, equal treatment, recognition of the particularities of different categories of organisations, the efficient use of public funds and multi-annual funding.<sup>145</sup> In practice, mechanisms and procedures for the distribution of state support vary among different authorities. Some regulations provide for the presence of CSO representatives<sup>146</sup> in project selection, some regulations include<sup>147</sup> principles of transparency, diversity, accountability and free access, but there is no general framework with harmonised rules and standards to regulate all procedures for selecting, monitoring and assessing state funding by CSOs. A regulation for a unified mechanism for access to state funding for CSOs was drafted by the State Chancellery in collaboration with civil society and consulted on in 2020,<sup>148</sup> but it is still pending and is planned for approval in June 2022.<sup>149</sup>

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<sup>139</sup> State Chancellery, <https://cancelaria.gov.md/ro/content/pentru-aprobarea-programului-national-de-dezvoltare-antreprenoriatului-social-2021-2025>.

<sup>140</sup> Organization for Small and Medium Enterprises Sector Development, <https://www.odimm.md/ro/presa/comunicate-de-presa/4979-antreprenoriatul-social-in-republica-moldova-va-fi-sustinut-printr-un-program-de-suport>.

<sup>141</sup> Free telephone assistance for children (116 111) provided by 'CNFACEM' Association.

<sup>142</sup> Hotline for female victims of domestic violence provided by 'La Strada' Centre.

<sup>143</sup> Free telephone assistance service for people with disabilities provided by AO Keystone Moldova.

<sup>144</sup> Public Association „Femeia și Copilul-Protecție și Sprijin”, <https://fcps.md/en/serviciul-echipa-mobila-a-pornit-din-septembrie-cu-noi-beneficiari/>.

<sup>145</sup> Art. 5(5) and (7), Law on Non-Commercial Organisations, 86/2020.

<sup>146</sup> Regulation on the financing of cultural projects carried out by non-profit organisations from the state budget, Government Decision 503/2019, [https://mecc.gov.md/sites/default/files/regulament\\_proiecte\\_culturale\\_2021\\_3.pdf](https://mecc.gov.md/sites/default/files/regulament_proiecte_culturale_2021_3.pdf).

<sup>147</sup> Order of the Minister of Youth and Sports Approving the Framework Regulation on the Organisation and Implementation of the Grants Programme for Youth Organisations and National/Local Project Contest for Youth Initiative Groups No 165/2017, [https://www.legis.md/cautare/getResults?doc\\_id=109593&lang=ro](https://www.legis.md/cautare/getResults?doc_id=109593&lang=ro).

<sup>148</sup> Participation Platform, State Chancellery, <http://particip.gov.md/proiectview.php?l=ro&idd=7781>.

<sup>149</sup> Participation Platform, State Chancellery, [https://particip.gov.md/ro/download\\_attachment/15127](https://particip.gov.md/ro/download_attachment/15127).



There is no evidence that state support is used to interfere in the activities of CSOs or undermine their independence. Information on provided funding and its beneficiaries is published on the webpage of the granting authorities.<sup>150</sup>

### **Standard III. CSOs enjoy favourable tax environment.**

CSOs pay income taxes, social and medical contributions for employees, but are exempt from income tax, including for economic activities if they conduct activities according to statutory purposes.<sup>151</sup> CSOs can benefit from a zero VAT rate and customs benefits for projects approved under international treaties.<sup>152</sup> In 2021, there were over 300 projects<sup>153</sup> benefiting from this facility, most of them implemented by CSOs. If during a given year a CSO sells services for more than 60,000 EUR, it is obliged to pay VAT.

CSOs can receive the public benefit status attributed by the Certification Commission<sup>154</sup> for a period of five years<sup>155</sup> via a clear procedure.<sup>156</sup> Since 2020, the Certification Commission runs under the authority of the PSA, having been transferred from the MoJ. The mandate of the Certification Commission<sup>157</sup> members expired in 2020 and, since 26 May 2020,<sup>158</sup> no decisions regarding public benefit statuses have been issued. As a result, many CSOs whose status expired could not renew their statuses and lost their benefits. The status is particularly useful for local and sports associations and the benefits include fiscal facilities, free of charge or preferential use of public property, non-reimbursable financing, contracting works and services, and special purpose financing, including social order. The last official list<sup>159</sup> of beneficiaries of public benefit status included 99 CSOs, of which 34 were due to expire in 2020 and 39 in 2021. In 2021, a new draft Regulation of the Commission was initiated.<sup>160</sup>

### **Standard IV. Businesses and individuals enjoy tax benefits for their donations to CSOs.**

Businesses that offer donations to CSOs can officially enjoy tax benefits. Individuals do not enjoy tax benefits for donations since 2016, after the law on percentage

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<sup>150</sup> Ministry of Education and Research of the Republic of Moldova, <https://mecc.gov.md/ro/content/programul-de-granturi-pentru-organizatiile-de-tineret>.

<sup>151</sup> Art. 52, 'Non-commercial organisations', Tax Code of the Republic of Moldova.

<sup>152</sup> Government Decision on how to apply the tax benefits and customs duty breaks related to the implementation of ongoing technical assistance and investment projects that fall in the scope of international treaties that the Republic of Moldova is party to 246/2010, [https://www.legis.md/cautare/getResults?doc\\_id=110454&lang=ro](https://www.legis.md/cautare/getResults?doc_id=110454&lang=ro).

<sup>153</sup> MoJ, [https://www.legis.md/UserFiles/Image/RO/2021/mo209-210md/246\\_an\\_1.doc](https://www.legis.md/UserFiles/Image/RO/2021/mo209-210md/246_an_1.doc).

<sup>154</sup> MoJ, <http://www.justice.gov.md/map.php?l=ro&idc=676>.

<sup>155</sup> Art. 22(2), Law on Non-Commercial Organisations, 86/2020.

<sup>156</sup> Chapter V, Public Benefit Status, Law on Non-Commercial Organisations, 86/2020.

<sup>157</sup> Regulation of the Certification Commission for Public Benefit Status,

[https://www.legis.md/cautare/getResults?doc\\_id=48138&lang=ro](https://www.legis.md/cautare/getResults?doc_id=48138&lang=ro).

<sup>158</sup> MoJ, [http://www.justice.gov.md/public/files/dir\\_prof\\_si\\_serv\\_jurid/edina\\_Comisiei\\_de\\_Certificare\\_07.08.20.pdf](http://www.justice.gov.md/public/files/dir_prof_si_serv_jurid/edina_Comisiei_de_Certificare_07.08.20.pdf).

<sup>159</sup> MoJ,

[http://www.justice.gov.md/public/files/dir\\_prof\\_si\\_serv\\_jurid/decizii\\_2020/Lista\\_AO\\_actualizata\\_01.06.2020.pdf](http://www.justice.gov.md/public/files/dir_prof_si_serv_jurid/decizii_2020/Lista_AO_actualizata_01.06.2020.pdf).

<sup>160</sup> MoJ,

[https://justice.gov.md/public/files/transparenta\\_in\\_procesul\\_decizional/proiecte\\_spre\\_examinare/2021/Proiect\\_HG.pdf](https://justice.gov.md/public/files/transparenta_in_procesul_decizional/proiecte_spre_examinare/2021/Proiect_HG.pdf).

designation entered into force. In practice, the Law on Philanthropy and Sponsorship<sup>161</sup> is not favourable for encouraging business entities to engage in philanthropic activity. Taxpayers have the right to make tax-deductible donations (both monetary and non-monetary) during the fiscal year with philanthropic or sponsorship purposes, but they cannot exceed 5 per cent of the taxable income. The threshold provides no effective benefits<sup>162</sup> and legal conditions do not encourage philanthropic activity. The deficiencies of the law are addressed in a draft developed by the Platform for the Promotion and Development of Philanthropy<sup>163</sup> and currently being examined by the MoJ. The amendments address a large number of issues including the difference between philanthropy and sponsorship, contractual standards, mechanisms for providing tax benefits and reporting, and the right of individuals to tax deductions.

#### **Standard V. Legislation and policies stimulate volunteering.**

The status of volunteers and volunteering is defined in a dedicated Law on Volunteering.<sup>164</sup> The law and regulatory framework<sup>165</sup> provide for volunteering activity in organisations that have the status of host institution. CSOs can become host institutions by obtaining a special certificate provided by a Certification Commission.<sup>166</sup> The Certification Commission is currently under the Ministry of Education, but there are discussions underway to transfer it to a different authority, given that volunteering does not only involve youth. In October 2021, there were 90 registered host institutions, of which 54 were CSOs.<sup>167</sup> About 100 CSOs had this status in early 2019, however. The Covid-19 pandemic significantly affected the possibilities for CSOs to involve volunteers in their offline activities, thus CSOs were forced to reduce the engagement of volunteers during this period.

A host institution can engage volunteers with or without contract (for less than 20 hours per month), and must also develop a three-year volunteering programme, keep registers and provide volunteer cards. Starting in 2019, host institutions must also present annual activity reports to the Certification Commission. Some CSOs have

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<sup>161</sup> Law on Philanthropy and Sponsorship, 1420/2002,

[https://www.legis.md/cautare/getResults?doc\\_id=108161&lang=ro](https://www.legis.md/cautare/getResults?doc_id=108161&lang=ro).

<sup>162</sup> Expert Grup, 'Fiscal Mechanisms for Stimulating Philanthropy,' 2011, [https://www.expert-grup.org/media/k2/attachments/Mecanisme\\_fiscale\\_de\\_stimulare\\_a\\_filantropiei.pdf](https://www.expert-grup.org/media/k2/attachments/Mecanisme_fiscale_de_stimulare_a_filantropiei.pdf).

<sup>163</sup> Platform for the Promotion and Development of Philanthropy, <https://www.facebook.com/filantropie.md/>.

<sup>164</sup> Law on Volunteering, 121/2010, [https://www.legis.md/cautare/getResults?doc\\_id=18722&lang=ro#](https://www.legis.md/cautare/getResults?doc_id=18722&lang=ro#).

<sup>165</sup> Regulation Implementing the Law on Volunteering, [https://www.legis.md/cautare/getResults?doc\\_id=18722&lang=ro#](https://www.legis.md/cautare/getResults?doc_id=18722&lang=ro#).

<sup>166</sup> Youth and Sports Ministry, Order No. 525 from 15 July 2014 on the approval of the Regulation on the organisation and functioning of the Certification Commission and the model Certificate of host institutions regarding voluntary activity, <https://mecc.gov.md/ro/content/voluntariat>, [https://www.legis.md/cautare/getResults?doc\\_id=126377&lang=ro#](https://www.legis.md/cautare/getResults?doc_id=126377&lang=ro#).

<sup>167</sup> Ministry of Education and Research, [https://mecc.gov.md/sites/default/files/registru\\_national\\_de\\_evidenta\\_al\\_institutiilor\\_gazda\\_a\\_activitatii\\_de\\_voluntariat\\_13.pdf](https://mecc.gov.md/sites/default/files/registru_national_de_evidenta_al_institutiilor_gazda_a_activitatii_de_voluntariat_13.pdf).

reported excessive bureaucracy in the procedure for engaging volunteers and a lack of support programmes for volunteers for which CSOs have to bear operational costs.

Policies and measures encouraging volunteering provide<sup>168</sup> some incentives: volunteering experience is considered as work experience upon employment, it is an advantage criterion for enrolling in higher education institutions, receiving scholarships or obtaining accommodation in university dormitories, and transferable study credits are available from universities for internships in areas of public benefit that are related to the volunteer's education profile and speciality. LPAs may grant tax exemptions from local taxes and provide facilities to hosting institutions.<sup>169</sup> However, in practice, the responsible institutions offer little to no advantages and the importance of the volunteering framework is slowly fading. The experience of volunteers is an asset recognised mostly abroad. International volunteering is defined and regulated by law.<sup>170</sup> CSOs can engage foreign volunteers and also send volunteers abroad.

The government<sup>171</sup> is expected to set up a National Volunteering Centre<sup>172</sup> (initially planned in 2018) for implementing policies for the development of the voluntary sector and active citizenship.

#### Specific recommendations:

- The government should adopt the Regulation for the unified mechanism for direct state funding to CSOs (that should provide for clear criteria and a unified procedure, the involvement of CSO representatives in establishing funding priorities and in selecting, monitoring and assessing funding programmes, while observing the principles of transparency, equal access to resources and accountability);
- The government should adopt amendments provided by CSOs for the regulatory framework on social entrepreneurship in order to boost the development of this regulation;
- The government should set up the National Volunteering Centre as the institution responsible for implementing policies for the development of the voluntary sector and active citizenship;
- The government should develop a national programme and fund to support volunteering;
- The PSA should take active measures to recommence the activities of the Certification Commission for public benefit status;

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<sup>168</sup> Chapter IV, Policies and Measures Encouraging Volunteering, Law on Volunteering, No. 121/2010.

<sup>169</sup> Art. 16, Law on Volunteering, No 121/2010.

<sup>170</sup> Art. 2 and Art. 17, International volunteering, Law on Volunteering, 121/2010.

<sup>171</sup> Law No. 128 of 9 July 2020 amending Art. 9 of the Volunteer Law No. 121/2010, [https://www.legis.md/cautare/getResults?doc\\_id=122446&lang=ro](https://www.legis.md/cautare/getResults?doc_id=122446&lang=ro).

<sup>172</sup> Deliverable included in items 3.1.1.1 and 3.2.1.2 of the Action Plan implementing the CSDS.

- Financial support from the state budget should be increased and national mechanisms for CPA and LPA support to CSOs on the basis of the best national and international practices should be implemented, including through multiannual contracts based on the consistent allocation of funds to the LPA budgets; and
- The State Tax Service and other responsible state institutions should facilitate the dissemination of information to the population about the mechanism on percentage designation and aim to enhance procedures and results on all aspects of the mechanism.

## 3.10 State-CSO Cooperation

Overall score per area: **4.0 / 7**

Legislation: **4.2 / 7**

Practice: **3.7 / 7**

The situation in the area of state-CSO Cooperation has worsened. The main reason is the expiry of the Civil Society Development Strategy 2018-2020 (CSDS) and the lack of a new policy document on CSO development. The implementation of the CSDS ended in 2020, following only a 50 per cent implementation rate. A new strategic document to support CSO development has not been initiated. Institutionalised cooperation between the state and CSOs is almost non-existent and relies mostly on consultation in the decision-making process. The focal point for relations with civil society in the State Chancellery is not visible and is not supported by adequate communication tools.

### Standard I. State policies facilitate cooperation with CSOs and promote their development.

The CSDS<sup>173</sup> was the last implemented policy document concerning CSO development and cooperation with the state. Although it was developed in a collaborative manner by parliament with contributions from CSOs, the government and the support of development partners, it was deficient in its implementation and monitoring. According to the related self-evaluation report,<sup>174</sup> only 50 per cent of the planned activities of the CSDS were implemented. The strategy included three intervention areas/objectives, all with comparable implementation rates: (i) *Strengthening the regulatory and institutional framework of civil society participation in the development and monitoring of public policies* (56.5 per cent); (ii) *Financial sustainability of civil society* (45.7 per cent); and (iii) *Strengthening the spirit of active citizenship and volunteering* (50 per cent).

The CSDS included an action plan with responsible parties and deadlines. The planned ongoing monitoring of the strategy was deficient because the Strategy

<sup>173</sup> The Law Approving the 2018–2020 Civil Society Development Strategy, No 51/2018, [https://www.legis.md/cautare/getResults?doc\\_id=105436&lang=ro](https://www.legis.md/cautare/getResults?doc_id=105436&lang=ro).

<sup>174</sup> State Chancellery, 'Report on the implementation of Civil Society Development Strategy, 2018-2020,' 2021, [https://cancelaria.gov.md/sites/default/files/document/attachments/raport\\_strategie\\_dsc\\_2018-2020\\_iii\\_anexe.pdf](https://cancelaria.gov.md/sites/default/files/document/attachments/raport_strategie_dsc_2018-2020_iii_anexe.pdf).

Monitoring Committee (comprised of three representatives from each group: CSOs, government, parliament, and donors) was not set up. Other constraints in the monitoring process were the minimal contributions to monitoring and evaluation made by the CSOs and the failure to monitor parliament's actions. The government, represented by the State Chancellery, had the main responsibility for the implementation of the CSDS, but it lacked ownership of the strategy. In particular, the political instability in recent years negatively influenced the oversight capabilities of the implementation of the strategy by the State Chancellery.

The development of a new strategy has not yet commenced and there is ongoing dispute concerning whether to develop a new framework or to instead finalise the implementation of the last strategy.

#### **Standard II. The state has special mechanisms in place for supporting cooperation with CSOs.**

Cooperation between the state institutions and CSOs is legally enabled through different mechanisms. The transparency legislation<sup>175</sup> provides public institutions with a framework for creating temporary working groups with the participation of CSOs for developing or consulting on public policies. There are also joint structures for monitoring specific policies (such as the former Monitoring Committee of the CSDS) alongside permanent structures for specific areas (such as the National Council for Child Rights Protection<sup>176</sup> and the National Committee for Combating Trafficking in Human Beings)<sup>177</sup> established based on government decisions.

The 2005 concept<sup>178</sup> of collaboration between civil society and parliament provides for the organisation of an annual conference as a form of cooperation convened by the President of Parliament. The [annual] conference is a tool for ongoing dialogue to assess the degree of cooperation and to decide on new directions for cooperation between parliament and CSOs. From 2005 to 2016, six such annual conferences were held. Since August 2016, however, no annual conference has been held between parliament and civil society.

The collaboration format under the National Participation Council ended in 2019. There was no particular interest from CSOs in reactivating it, as many saw it as a legitimating tool of the government. At the level of Rayon (District) Councils there are a few functional Participation Councils<sup>179</sup> which have established consistent

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<sup>175</sup> The Law on Transparency in Decision-making, No 239/2008.

<sup>176</sup> National Council for Child Rights Protection, <https://cnpdc.gov.md/ro/advanced-page-type/membrii-consiliului>.

<sup>177</sup> National Committee for Combating Trafficking in Human Beings, <http://antitrafic.gov.md/>.

<sup>178</sup> Parliament's decision on the concept of cooperation between parliament and civil society, No 373/ 29 December 2005, <http://www.legis.md/cautare/rezultate/20911>.

<sup>179</sup> Soroca Rayon Participation Council, <http://euparticip.md/>; Căușeni Rayon Participation Council, <https://www.facebook.com/CRCauseni>; Cahul Rayon Participation Council, <https://crp-cahul.md/>.

cooperation.<sup>180</sup> These Participation Councils can be considered a good practice, as their recommendations are periodically taken into consideration by the Rayon Councils.

A special structure for cooperation with CSOs is the Directorate for Coordination in the Area of Human Rights and Social Dialogue (the former Directorate of Permanent Secretariats), part of the State Chancellery, which also includes the focal point for relations with CSOs (instituted in 2019). The focal point is, however, not supported by a specific framework which would provide tools and methods to be applied in its relations with CSOs. The activity of the focal point was performed mainly online and only a few offline meetings were held during the reporting period. The Directorate itself has little visibility or direct engagement with CSOs.

The Consultative Platform<sup>181</sup> for CSO representatives set up by parliament is not functional and has not been operational since its constitutive meeting on 10 December 2019. Another structure created under the Presidency of the Republic of Moldova, the Civil Society Council,<sup>182</sup> ceased to exist from 2020, following a few years of inactivity.

CSOs also unite in voluntary independent national platforms and networks that can engage in cooperation relationships with state institutions. These have variable outcomes. The NGO Council,<sup>183</sup> a representative structure engaged in dialogue on issues concerning the CSO enabling environment, such as volunteering or social entrepreneurship, has appealed for the resumption of the activities of the Certification Commission for public benefit status and has engaged in research on the use of the percentage designation funding sources by the top beneficiaries. The Moldovan National Platform Eastern Partnership Civil Society Forum,<sup>184</sup> which support European integration, serves as a consultative platform, publishes joint public declarations on different topics and also provided a list of policy priorities<sup>185</sup> to the new government in July 2021. Other types of cooperation platform include those with a narrow focus, for example the Platform for the Promotion and Development of Philanthropy<sup>186</sup> has been drafting amendments to the law on philanthropy together with the MoJ. In these cases, the cooperation mechanism is rather reactionary on the part of the state institutions.

### Specific recommendations:

- The government and parliament should adopt a new strategic document for the development of civil society that should also include actions not performed in the

<sup>180</sup> Art. 43(1)(t), Law on Local Public Administration, 436/2006.

<sup>181</sup> Parliament of the Republic of Moldova,

<http://parlament.md/Actualitate/Comunicatedepresa/tabid/90/ContentId/5692/language/en-US/Default.aspx>.

<sup>182</sup> President of the Republic of Moldova, <https://presedinte.md/rom/componenta>.

<sup>183</sup> NGO Council, <https://www.consiliuonng.md/prezentarea-general/>

<sup>184</sup> Moldovan National Platform – Eastern Partnership Civil Society Forum, <https://www.eap-csf.md/>.

<sup>185</sup> Moldovan National Platform – Eastern Partnership Civil Society Forum, <https://www.eap-csf.md/prioritati-de-politici-pentru-noul-guvern/>.

<sup>186</sup> Platform for the Promotion and Development of Philanthropy, <https://www.facebook.com/filantropie.md>.

previous strategy (CSDS 2018-2020). Financial resources should be allocated to ensure the implementation of all the actions included. The State Chancellery should take responsibility for developing and implementing the new strategy;

- The government should adopt institutional procedures for direct and open collaboration between the Directorate for Coordination in the Area of Human Rights and Social Dialogue of the State Chancellery and CSOs;
- The government should adopt specific instructions to enhance the activity of the focal point for relations with CSOs;
- Parliament should resume the regular organisation of the annual conference between parliament and civil society as a tool for ongoing dialogue;
- District Councils should replicate the positive experiences of the District Participation Councils in Soroca, Cahul and Causeni; and
- The government should develop a framework mechanism of cooperation between CSOs on one hand and CPAs and LPAs (of local and rayon level) on the other, to ensure the representation, involvement and development of local CSOs.

## 3.11 Digital rights

Overall score per area: **4.1** / 7

Legislation: **4.3** / 7

Practice: **3.9** / 7

There is widespread and affordable access to the internet across the whole country, thus allowing for increasing online activity. The state does not explicitly regulate digital rights. Digital technologies are developed without mechanisms to ensure the respect of human rights. There are a few modest initiatives in place to close the digital gap.

### **Standard I. Digital rights are protected, and digital technologies are compliant with human rights standards.**

The precondition for digital rights to be ensured is affordable access to the global internet. This is not<sup>187</sup> legally restricted in the Republic of Moldova, and is only limited by the possibilities of technological infrastructure and the digital skills of the population. Protection of online exercise of rights is not subject to specific legislation, but rather to general legislation or no legislation at all. Limitations to digital rights could arise from gaps in the legislation which has not been expressly designed for the online environment.

<sup>187</sup> Law on Electronic Communications, 241/2007, [https://www.legis.md/cautare/getResults?doc\\_id=125279&lang=ro#](https://www.legis.md/cautare/getResults?doc_id=125279&lang=ro#).

There are several legal and administrative instruments aimed at protecting some aspects of the online environment such as the International Convention on Cybercrime ratified in 2009, the Law on Preventing and Combating Cybercrime 20/2009, the Law on Personal Data Protection 133/2011, regulators (such as National Regulatory Agency for Electronic Communications and Information Technology and the National Centre for Personal Data Protection) and specialised law enforcement (such as the Directorate for Combating Cyber Crimes, part of the General Police Inspectorate).

The latest strategic document regarding digital development is the National Strategy Digital Moldova 2020<sup>188</sup> which focuses on (i) improving connectivity and network access; (ii) the promotion of digital content and services; (iii) consolidation of digital skills to allow innovation and stimulate use; and (iv) improving security and trust in the digital space. Digital policies are coordinated by the Deputy Prime Minister for Digitalisation, but this function does not have a dedicated supporting administrative structure. Technological development in public life is conducted under the auspices of the Electronic Governance Agency (EGA),<sup>189</sup> which is not a policy maker and is mainly focused on the development of electronic services as an addition to conventional public services. Digital technologies in the country are developed under the influence of social and economic demand and possibilities, without specific criteria aligned to human rights standards. Information about the use of artificial intelligence (AI) technology in specific public areas is not available. CSOs have begun to study the implications of AI technologies and provide policy options on this,<sup>190</sup> but the issue needs more attention and further analysis.

In 2016, parliament adopted on its first reading a draft law<sup>191</sup> (dubbed the ‘Big Brother’ law) which aimed to combat child pornography and terrorism, but also included provisions that allowed investigative bodies to censor the internet (by blocking webpages, tracking personal emails, and reading private messages posted on social networks). Following a prompt reaction from CSOs and negative opinions from the Venice Commission<sup>192</sup> and OSCE, the draft law was abandoned. However, under the guise of fighting child pornography, law enforcement has a mechanism (covering both hardware and software) that allows them to monitor providers’ data and block any webpage they wish. There is, however, no widespread practice of blocking websites or removing online content (apart from the 2020 case in which the SIS blocked over 60

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<sup>188</sup> Ministry of Economy and Infrastructure,

[https://mei.gov.md/sites/default/files/raport\\_de\\_evaluare\\_moldova\\_digitala\\_2020.semnat.pdf](https://mei.gov.md/sites/default/files/raport_de_evaluare_moldova_digitala_2020.semnat.pdf).

<sup>189</sup> E-Governance Agency, <https://egov.md/en/about>.

<sup>190</sup> LRCM, ‘Artificial Intelligence and the role of civic actors – the case of Moldova’, 2021, [http://old.crim.org/wp-content/uploads/2021/08/CRJM-study\\_Moldova\\_Digital-Literacy-Program-ENG-fin.pdf](http://old.crim.org/wp-content/uploads/2021/08/CRJM-study_Moldova_Digital-Literacy-Program-ENG-fin.pdf)

<sup>191</sup> Draft Law 161/2016, <http://media-azi.md/ro/taxonomy/term/793>.

<sup>192</sup> Joint Opinion of the Venice Commission and of the Directorate General of Human Rights and Rule of Law (DGI) of the Council of Europe on the Draft Law Nr. 161 amending and completing Moldovan Legislation in the field of Cybercrime, [https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2016\)039-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2016)039-e).



webpages for the alleged promotion of disinformation concerning Covid-19). The only registered cases of intentional mobile signal disruption, internet shutdown or slowdown in the country were registered in April 2009 during an anti-government protest.

## Standard II. The state creates conditions for the enjoyment of digital rights

There is no legal provision that guarantees open, accessible and affordable internet. Nevertheless, internet is accessible on mobile and landline networks in 98 per cent of Moldovan localities. In 2020, the share of active mobile-broadband subscriptions was 58.8 per 100 inhabitants and 17.8 per 100 inhabitants for fixed broadband subscriptions. 99.9 per cent of the population is covered by 3G and 98 per cent by 4G/LTE mobile networks. Adequate high speed home access to broadband internet is still a challenge, however.<sup>193</sup>

The National Development Strategy 'Moldova 2030', developed with the input of CSOs, highlights connectivity as an important factor for the development of the country. It confirms the need to promote 5G technology and high-speed accessibility at over 100 Mbps for any household within the perspective of the development of the 'Internet of Things', the digitalisation of industry and the use of cloud technology.<sup>194</sup> There are already expanding advanced online services in such areas as business registration, and services related to judicial procedures. The possibility to use a digital signature is open to everyone. CSOs are beneficiaries of some of the available services, including online financial reporting.

The EGA has a digitalisation agenda which seeks to change the service delivery model to ensure that services are accessible to all citizens, both those in the country, and those abroad. In this regard, it is conducting trainings<sup>195</sup> and information campaigns<sup>196</sup> aimed at addressing the digital divide, but the scale of these is limited to a few hundred beneficiaries per year. These efforts also capitalise on a network of public libraries that have been equipped and whose staff have been trained<sup>197</sup> to facilitate access to the internet and related technologies to the elderly and less-digitally literate persons, including in rural areas.

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<sup>193</sup> UNDP Moldova, Compact on Digital Transformation of Moldova, 2021, <https://www.md.undp.org/content/dam/moldova/docs/Digital-MOLDOVA%20ENG.pdf>.

<sup>194</sup> National Development Strategy 'Moldova 2030', Government Decision 377/2020, [https://www.legis.md/cautare/getResults?doc\\_id=121920&lang=ro](https://www.legis.md/cautare/getResults?doc_id=121920&lang=ro); [https://gov.md/sites/default/files/document/attachments/intr40\\_12\\_0.pdf](https://gov.md/sites/default/files/document/attachments/intr40_12_0.pdf).

<sup>195</sup> 'Electronic services for everyone', information sessions for librarians from all over the country, <https://www.egov.md/en/communication/news/librarians-all-over-country-active-users-and-promoters-electronic-services>.

<sup>196</sup> The information and digital literacy campaign entitled 'e-Governance for all and everyone', <https://www.egov.md/en/communication/news/expected-results-were-achieved-end-digital-literacy-campaign>; E-ambassadors to strengthen and improve their knowledge on e-governance, <https://www.egov.md/en/communication/news/network-e-ambassadors-expanding>.

<sup>197</sup> Novateca, <https://novateca.md/en/about>.

Public awareness on digital rights as such is essentially non-existent. AI/machine learning is not a topic of public debate and neither is it on the political agenda. Yet, public institutions use several technologies such as face recognition systems at border control, traffic monitoring systems and may also use more advanced technologies in monitoring and surveillance, including machine learning. Still, there is no oversight mechanism for seeking remedies against violations of digital rights, and any suspicions of violation may only be subject to traditional legal mechanisms.

The lack of digital literacy of judges, prosecutors and lawyers, will also potentially affect the quality of the interpretations and decisions regarding violations of digital rights in the online environment.

#### Specific recommendations:

- The justice system should develop the proficiency of the digital literacy of judges, prosecutors and lawyers;
- Public institutions should develop an informal national platform for open dialogue (between state institutions, the business sector and CSOs) with the purpose of transferring expertise and skills in the area of digital rights;
- The government should build policy-making capacities under the Deputy Prime Minister for Digitalisation and integrate a human rights-based approach;
- The government should implement a uniform national digital skills development programme for increasing the level of digital literacy across the country;
- Public policies for the development of digital technologies should have reference to the human rights perspective; and
- CSOs should adopt a proactive position in the promotion of digital rights.

# IV. KEY PRIORITIES

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The overall situation for the CSO enabling environment in the Republic of Moldova did not change significantly over the period September 2020 to December 2021. Most areas registered little to no changes. There are three areas in which slight improvements have been observed: Freedom of Association, Right to Participation in Decision-Making and State Support and one area, Freedom of Assembly, in which a significant improvement has been improved, essentially representing a return to near-normal, pre-pandemic regulations.

The main achievements of the period include the adoption of several laws and regulations such as the Law on Local Action Groups and the Regulation on Subsidising Jobs (regarding the employment of disabled people in social entrepreneurship), an improvement in the percentage designation mechanism and a positive shift in attitude towards cooperation with CSOs from parliament and the government.

Most of the existing problems had been identified in earlier reports and include deficiencies in the registration process and evidentiary abilities of CSOs, access to information and transparency in decision-making processes, the lack of widespread models and rules for state budgeting at the local and central levels, privacy issues for activists and the lack of a clear perspective for digital rights.

There are a number of processes that have been initiated in accordance with the previous recommendations (several legal amendments are pending in the government and in parliament regarding the addressed issues, including a project initiated for re-designing the registration of legal entities), but none of them were brought to a conclusion during the current reporting period.

Key priorities for the development of the CSO environment in the Republic of Moldova are as follows:

1. The government and parliament should adopt a new strategic document for the development of civil society that should also include actions not performed in the previous strategy (CSDS 2018-2020). Financial resources should be allocated to ensure the implementation of all the actions included;
2. The PSA should eliminate all practices contrary to the Law on Non-Commercial Organisations during the CSO registration procedure and develop a modern interoperable State Registry for Legal Units that will integrate CSOs

and simplify the process of registration. The PSA should also provide for the possibility of an online registration procedure for CSOs;

3. Adjust the legal framework for public procurements with a legal mechanism for social contracting with clear instructions and a standard package of model documents and build knowledge in public institutions based on this mechanism;
4. Public institutions should improve transparency and participation in decision-making by developing a unified online platform which would include updated information on legal initiatives at all stages and all amendments from introduction up to adoption;
5. LPAs and law enforcement should adopt non-violent and non-intrusive assistance and response procedures regarding peaceful assemblies based on the observance of human rights, including for critical and anti-government assemblies;
6. The SIS should provide transparency in the process of assessment and monitoring of the vulnerabilities of CSOs to terrorism financing and allow the participation of CSOs in the process of identifying measures to address any identified issues;
7. The government should adopt the Regulation for the unified mechanism for state funding to CSOs with uniform conditions and procedures for the direct state funding of CSOs. These conditions should provide for the involvement of CSO representatives in setting up the funding priorities and in selecting, monitoring and assessing funding programmes (while observing the principles of transparency, equal access to resources and accountability);
8. Parliament should amend the Law No 1420/2002 on Philanthropy and Sponsorship, especially as regards the mechanism of tax deductions for donations for philanthropy and sponsorship purposes based on the amendments proposed by the Platform for the Promotion and Development of Philanthropy; and
9. The government should adopt amendments provided by CSOs for the regulatory framework on social entrepreneurship in order to boost the development of this initiative.

# V. METHODOLOGY

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The CSO Meter supports regular and consistent monitoring of the environment in which CSOs operate in the Eastern Partnership (EaP) countries. It consists of a set of standards and indicators in 11 different areas to measure both law and practice. It is based on international standards and best practices. The CSO Meter was developed by a core group of experts from ECNL and local partners from the six EaP countries.

ECNL has worked with the methodology experts RESIS since 2020 on adapting the CSO Meter methodology package to enable for both qualitative and quantitative comparison of the different areas of the enabling environment across the EaP countries and years. The proposal for the research model was consulted on and tested with the extended regional CSO Meter Hub via email and online events. With the updated comparison model, we aim to (i) assess the environment for civil society in each of the 11 areas; (ii) enable tracking of developments/progress throughout the years per country; and (iii) compare the environments regionally.

The country partners, together with other CSOs part of the CSO Meter Hub, conducted the monitoring process and drafted the narrative country report. They also established Advisory Boards in each country, composed of expert representatives of key local stakeholders. The members of the Boards have two main tasks, to review the narrative reports and to assign scores for every standard based on the narrative reports.

The current report covers the period from September 2020 to December 2021.

## Monitoring process

The report was prepared by the local partner of the project in the Republic of Moldova, Promo-LEX Association, following a joint methodology for all six EaP countries. It focuses on the changes that have occurred in the CSO environment in the Republic of Moldova during 2020-2021. The report reviews 32 standards that are part of the CSO Meter and provides recommendations for improvement in each of the 11 areas covered. The process included data collection, interviews, desk research, focus group type discussions, brief information exchanges and analysis of the collected information and of other studies on the CSO environment during the reference period.

The findings and conclusions of the study do not cover the working environment of CSOs from the Transnistrian region of the Republic of Moldova, which is outside the control of the constitutional authorities of the Republic of Moldova.

## List of interviewed persons:

Andrei Lutenco (Executive Director, *CPR Moldova*), Cristina Durnea (*Legal Expert Centre for Journalistic Investigations*), Diana Doroş (*Head of the Directorate for Coordination in the Area of Human Rights and Social Dialogue of the State Chancellery*), Elena Nofit (*Former Head of the NGO Council*), Irina Buzu (Co-led a Department Algorithmic decision-making at the *Institute for Internet and the Just Society*, part of the Council of Europe group of experts on alphabetisation in AI), Marcela Dilion (Programme Manager, *Keystone Moldova*), Veronica Ignat (Head of Section for registration of non-commercial organisations, *PSA*), Vitalie Eşanu (Executive director at *privesc.eu*).

## Brief information exchange:

Elena Sajină (*GENDERDOC-M*), Sorina Bodiş (*Promo-LEX Association*), Irina Ureche (*AO Future Generation*), Liliana Celac (*E-transformation Directorate, PSA*), Olga Tumuruc (*e-Government Agency*), Carolina Diacov (*'Noii barbari' Association*), Galina Climov (*AOPD*), Irina Corobcenco (*Promo-LEX Association*), Igor Ciurea (independent expert), Sergiu Gurău (*'Floare de cireş' social enterprise*), Victor Panţîru (Lawyer, former member of the *Civil Society Council*), Marina Albu (President of the *National LEADER Network* in the Republic of Moldova), Rita Boaghi (Specialist, *National LEADER Network* in the Republic of Moldova).

This report was developed with the contribution of an Advisory Board that consisted of representatives of key local stakeholders to ensure that the findings and recommendations reflect the overall situation in the country:

- Andrei Brighidin (Director for Development, Monitoring and Evaluation, *East Europe Foundation*)
- Alexei Buzu (Executive Director, Centre '*Partnership for Development*')
- Tudor Lazăr (Executive Director, *Centre for Organisational Training and Consultancy CICO*)
- Serghei Lîsenco (President, *Criuleni Debate Centre*)
- Sorina Macrinici (Programme Director, *Legal Resources Centre from Moldova*)
- Serghei Neicovcen (Executive Director, *Contact Centre*)
- Elena Prohniţchi (Deputy Head / Programme Coordinator, *Association for Participatory Democracy*)
- Silvia Strelciuc (independent expert)
- Oxana Zavidei (*'Stimul' Association*)
- Alexandru Postica (Strategic Development Adviser, *Promo-LEX Association*)
- Victoria Neaga (Project Manager, *Delegation of the European Union to the Republic of Moldova*)

The drafted country narrative report was reviewed by the Advisory Board members in Moldova via online communication and at the meeting on 10 December, 2021. Based on the recommendations of the Advisory Board members, the findings and recommendations were further revised and finalised.

## Scoring process

The Advisory Board members in Moldova assessed each **Standard of the 11 areas of the CSO Meter tool in Legislation and Practice**. For the scoring procedure a 7-point scale is used. The extreme values of the scale are conceived as the extreme/ideal situation or environment. For example, (1) is an extremely unfavourable (authoritarian) environment, while (7) is an extremely favourable (ideal democratic) environment for CSOs. For more information on the CSO Meter tool, the scoring process and calculation, please visit <https://csometer.info/>. The presented scores in this 2021 report will serve as baseline scores and, in the coming years, progress will be measured against them.

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