

WHAT AREAS DOES THE CSO METER COVER?

Assessing the civil society environment
covering 11 different areas of law and practice
in the Eastern Partnership countries



A. FUNDAMENTAL RIGHTS AND FREEDOMS THAT ARE ESSENTIAL FOR THE EXISTENCE OF CIVIL SOCIETY:



AREA 1. FREEDOM OF ASSOCIATION

FoA includes the right of everyone, regardless of nationality, to associate with others and establish a civil society organisation (CSO), take part in its activities as a member or supporter without territorial limitations, both online and offline. Besides individuals, the freedom also extends to legal entities. CSOs may operate as informal organisations or obtain a legal entity status based on an effective registration procedure. Denial of registration is permitted only on very limited grounds.

In a democratic and pluralistic society, CSOs shall be free to offer different perspectives and solutions to societal challenges. This is possible only if they are free to choose their objectives on their own, and the governments shall not impose any limitations on the scope of their activities. CSOs are free to decide on their internal structure, the membership of their bodies and their mandate. CSOs may be subject to reporting on their activities, which has to be clearly defined and proportional.

CSOs shall be provided a reasonable opportunity to correct any wrongdoing before any sanctions are applied. If sanctions are imposed, authorities shall respect the principle of proportionality.



AREA 2. EQUAL TREATMENT

The principle of equal treatment means that legislation and state authorities should treat CSOs and business sector equally regarding their establishment, registration, and activities. Any differential treatment is discriminatory unless it has an objective and reasonable justification, clearly defined by law, necessary to achieve a legitimate aim and following the principle of proportionality.



AREA 3. ACCESS TO FUNDING

Access to funding supports CSOs to realise their mission. The diversity of resources contributes to their independence and sustainability. CSOs shall be free to seek, receive and use financial or in-kind support from any legal public or private source. Furthermore, there shall be different incentives introduced for individuals and legal persons to support the work of CSOs. The reporting requirements for both recipients and providers of funding shall not be burdensome. CSOs shall have the option of operating with cash and/or with banks. States shall not obstruct the receipt of funding from foreign and international sources, as such funding helps to develop CSO capacities and contributes to the social, economic and human development of the countries.



AREA 4. FREEDOM OF PEACEFUL ASSEMBLY

A vibrant democratic society means enabling everyone to assemble and pursue specific goals such as expressing their opinion, protest, commemorate, express solidarity or even simply celebrate together. This freedom includes the right for any person, local or foreign, and groups of such persons, including CSOs, without discrimination to organise and/or participate in peaceful assemblies. The State shall create an environment that facilitates the organisation of and participation in public assemblies. There shall be no cases of arbitrary refusals or dispersals of peaceful assemblies or cases of detention or intimidation of organisers and participants. The obligation to facilitate and protect peaceful assemblies lies within law enforcement. The use of force should be proportional and clearly regulated based on human rights principles. Law enforcement representatives who violate the right, apply unlawful use of force or fail to protect peaceful assemblies should be held accountable.



AREA 5. RIGHT TO PARTICIPATION IN DECISION-MAKING

Legislation shall ensure that citizens enjoy inclusive, broad, and meaningful participation. The exercise of this right may not be suspended or limited except on objective and reasonable grounds provided by law. CSO involvement in the public debate, including critical voices and dissenting views, is essential for a pluralistic democratic society. CSOs shall have opportunities to effectively participate in all stages of the decision-making process including planning, implementation, monitoring and evaluation, and access to all necessary information.

In recent years, the desire for stricter transparency requirements with regard to political activities and lobbying has affected the ability of CSOs to engage in the public debate and participate in the decision-making process. Political activities should be clearly and narrowly defined so that they do not limit CSO participation in public and advocacy activities. In a similar manner, the regulation of lobbying shall not limit the advocacy activity of CSOs.



AREA 6. FREEDOM OF EXPRESSION

The freedom of opinion and expression is the cornerstone of a democratic society, as free people are able to articulate their needs and priorities and hold decision makers to account. Freedom of opinion and expression is guaranteed to any person without discrimination. It provides the right to seek, receive and impart information and ideas in any possible form. States may limit freedom of expression, based on clear law and if strictly necessary to achieve legitimate aims. Hate speech – that is, any advocacy of hatred that constitutes incitement to discrimination, hostility, or violence – is not protected by freedom of expression and shall be prohibited. Laws should be designed to provide free information flows and protect a diverse range of content, without any limitation imposed on the free use of communication tools such as the internet. There should be no censorship, and prompt and proportionate responses should be in place in cases of defamation via media. The activity of journalists should be protected, and their right to keep sources of information confidential should be respected.



AREA 7. RIGHT TO PRIVACY

The right to privacy means the respect for an individual's private and family life, home, and correspondence. The right to privacy and the protection of personal data pertains to CSOs as well and needs to be balanced with the right of access to information. Laws related to CSO reporting shall protect the privacy of all individuals associated with a CSO, such as donors, members, volunteers, and other associates. Access to CSO offices and documents should be possible only if there are objective grounds for such access. Any interference must be based on clear law and be strictly necessary to achieve legitimate aims. Furthermore, interference or violation of the right to privacy shall be investigated and prosecuted.



AREA 8. STATE DUTY TO PROTECT

The state duty to protect is indispensable for the exercise of freedom of association, and includes safeguarding CSOs' rights against state interference and ensuring that third parties do not violate CSOs' rights or hinder CSOs from exercising their activities. Also, the rise in radicalization, extremism and terrorism has influenced a number of initiatives on a global level that combat the core causes of such occurrences. Relevant state institutions shall carefully examine areas with potential risks and avoid adopting measures designed to combat money laundering, terrorism financing and corruption that target the whole sector. Making all CSOs subject to these laws may restrict or infringe on their rights and the rights of their employees and donors.



AREA 11. DIGITAL RIGHTS

Digital rights are all human rights that are applicable in the digital world. While emphasis is mostly given to the right to privacy, freedom of opinion, expression, and information, and freedom of assembly and association, digital rights have a much larger scope. For example, the right to non-discrimination, right to life, liberty, and security, right to fair trials and remedy, and economic, social, and cultural rights are also relevant and often at risk when digital technologies are used.

That said, the design, development, or deployment of technology, such as AI systems, often operate within a legal vacuum, as many national laws are applicable offline only. Digital technologies are often deployed without consideration for human rights, or worse, are fundamentally incompatible with them. Beyond the negative obligation to "do no harm", States have positive obligations to enable a safe and inclusive environment both offline and online where CSOs, activists, journalists and other stakeholders can effectively carry out their work. When developing policies or establishing practices related to digital rights, States must meaningfully engage all stakeholders, with particular attention given to civil society, affected groups and marginalised communities.

B. NECESSARY CONDITIONS THAT ENSURE ADDITIONAL SUPPORT FOR THE DEVELOPMENT OF CIVIL SOCIETY:



AREA 9. STATE SUPPORT

States have developed different mechanisms for financial and in-kind support of CSOs to underline their important role in addressing societal needs. The state supports CSOs through institutional and/or project funding, contracting CSO services, subsidies, or in-kind support. One important aspect of all mechanisms is the principle that CSOs are independent and autonomous from the government even though they receive state support.

Distribution of direct state support for CSOs shall be in accordance with the principles of equal access, transparency, and accountability. Indirect state support is essential for the financial viability and further development of civil society. Thus, CSOs and donors shall enjoy favourable tax treatment for various CSO income sources. The State should support corporate and individual giving by providing tax incentives for both corporate and individual donors of CSOs.



AREA 10. STATE-CSO COOPERATION

CSOs are important partners in the development of countries. The state shall approach its cooperation with CSOs strategically and facilitate the development of the sector. This includes adoption of policy documents on CSO cooperation and participation with concrete action plans, developed in a participatory manner with CSOs, and regularly monitored and evaluated. To facilitate the relationship between public authorities and CSOs, a number of countries have developed different cooperation mechanisms in which CSOs shall be able to take part transparently. These mechanisms increase dialogue and foster a sense of ownership and willingness to develop the civil society sector. Possible mechanisms include: a contact person for CSOs in each ministry or a central coordination body; joint CSOs-public authority structures as multi-stakeholder councils or committees; and joint working groups of experts and other advisory bodies on different levels.



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