

# CSO METER

A compass to conducive  
environment and  
CSO empowerment

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## REGIONAL REPORT 2021



# CSO Meter 2021

## Regional Report

The European Center for Not-for-Profit Law Stichting (ECNL) has prepared this regional report based on the findings and priorities of the six CSO Meter country reports for 2021 from its six partners: Transparency International Anticorruption Center in Armenia; MG Consulting LLC in Azerbaijan; Civil Society Institute in Georgia; Promo-LEX Association in Moldova; the Ukrainian Center for Independent Political Research (UCIPR); and country researchers from Belarus.

ECNL is a leading European resource and research centre in the field of policies and laws affecting civil society. ECNL creates knowledge, empowers partners and helps set standards that create, protect and expand civic freedoms.

The “CSO Meter: A Compass to Conducive Environment and CSO Empowerment” project is implemented by ECNL and its partners: Transparency International Anticorruption Center in Armenia; MG Consulting LLC in Azerbaijan; Civil Society Institute in Georgia; Promo-LEX Association in Moldova; and UCIPR.

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The Regional Report 2021 has been updated in March 2023. More information is available under the Methodology chapter.

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# ABBREVIATIONS & ACRONYMS

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AI	Artificial intelligence
AML/CTF	Anti-money laundering and counter-terrorism financing
CSO	Civil society organisation
CSR	Corporate social responsibility
EaP	Eastern Partnership
ECNL	European Center for Not-for-Profit Law Stichting
ECtHR	European Court of Human Rights
EGA	Electronic Governance Agency of Moldova
EU	European Union
EUR	Euro
FATF	Financial Action Task Force
FRT	Facial recognition technology
ISPs	Internet Service Providers
LGBTQIA+	Lesbian, gay, bisexual, transgender, queer/questioning, intersex and asexual
MoJ	Ministry of Justice
OGP	Open Government Partnership
OTA	Operational-Technical Agency of the State Security Service of Georgia
SLAPP	Strategic lawsuit against public participation
SMS	Short Message Service
UBO	Ultimate beneficial owner
UN	United Nations
USAID	United States Agency for International Development
VAT	Value Added Tax

# I. EXECUTIVE SUMMARY

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## Key developments in the CSO environment

War, emergencies and political turbulence, in addition to the Covid-19 pandemic, significantly affected the environment for civil society organisations (CSOs) in the Eastern Partnership (EaP) region in the period between September 2020 and December 2021. The environment for CSOs to operate and the possibilities for activism across the region faced restrictions, both legislative and in practice.

The Forty-Four Day War in Nagorno-Karabakh between Azerbaijan and Armenia impacted the CSO environment as it led to the declaration of martial laws in both countries. Political turbulence rocked the region in general with all of the EaP countries facing deep political crises. These included protests against the government in Belarus after the 2020 presidential election, protests in Armenia related to the provisions of the ceasefire agreement in the aftermath of the War, and, in Georgia, protests and boycotts by the opposition concerning allegations of fraud and systemic procedural violations during the 2020 parliamentary elections.

Protests led to snap parliamentary elections in Armenia and Moldova in 2021. The same year, municipal elections were held in Georgia. Only in Moldova did elections result in a change to the political party in power, however. In parallel, the Belarusian government suspended its participation in the EaP.

2021 was the middle of Zelensky's presidential term in Ukraine. The first half of his term was dedicated to the process of consolidating power and influence over the authorities (ten ministers were replaced in notable rotations in May and November 2020). This had a positive effect on civil society in Ukraine, resulting in dialogue and cooperation, as well as favourable measures for the CSO environment. The instability in Ukraine and in the EaP region in general intensified after the Russian invasion of Ukraine on 24 February 2022.<sup>1</sup>

In 2021, CSOs in the EaP region faced challenges, particularly in exercising their civic freedom and in navigating the CSO environment while affected by the crises and political developments referred to above. Numerous CSOs and associated individuals were prevented in practice from enjoying their freedom of association, assembly, expression and privacy and their digital rights. Freedoms and the overall work of civil

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<sup>1</sup> The invasion has had a significant impact on the legal ecosystem and the conditions for CSOs both in Ukraine and, subsequently, on the countries of the EaP region adding a further humanitarian and refugee crises. The implications of the war for the CSO environment will be analysed in detail in the 2022 CSO Meter report.

society took the hardest blow in Belarus with severe prosecution, sanctions and forced liquidations for both unregistered and registered CSOs.

Access to funding and overall financial sustainability remained critical issues to the future and long-term work of CSOs in the region, particularly in Belarus and Azerbaijan with the additional restrictions on foreign funds, and other sources of funding (e.g., cash donations and anonymous donations). State funding remains underdeveloped and is provided only to a limited scope of CSOs via non-transparent and unaccountable procedures. Other sources of potential income for CSOs, such as tax benefits, individual and corporate philanthropy, and volunteerism, remain unavailable or difficult to obtain. CSOs' participation in decision-making was further limited by the Covid-19 pandemic in most of the countries. However, there were also improvements in certain countries with some CSOs reporting an increased interest in dialogue and cooperation with the relevant authorities.

## Key developments per country in the region

In **Belarus**, the civil society landscape dramatically changed with many civil society activists either in jail or fleeing the country. This was a result of several targeted actions by the state towards activists and civil society. New repressive laws were adopted (preventing, for example, the activities of unregistered organisations, anonymous donations and many others) that have limited civic freedoms and CSO operation and there has been a severe crackdown on the civic space. Authorities have applied searches, arrests, tax inspections and criminal charges, particularly against activists, CSOs, journalists, and any form of opposition. As a result, numerous Belarusian CSOs and activists have either fully or partially transferred their activities abroad. The remaining CSOs and media in the country operate under the conditions of censorship, self-censorship, repression, and the constant threat of arrest. Restrictions on freedom of peaceful assembly have left no space for critical voices; currently there are about 5,000 criminal cases in court related to protests. Freedom of expression further deteriorated with the removal of independent media across the country (both print and online media) and published material in different forms both online and offline have been labelled as 'extremist materials'. Their production or republishing has led to fines and arrests and our reporting has identified around 2,000 criminal cases relating to defamation and insult of officials. In an orchestrated wave of searches and arrests in July 2021, many activists were charged with tax crimes and in relation to participation and support of protests. More than 360 CSOs were involuntarily liquidated in a judicial or non-judicial procedure. Another 210 CSOs decided to voluntarily liquidate (usually at the request of the authorities or due to the impossibility of operating in such harsh conditions). In a further crackdown, in

In **Armenia**, the situation remained relatively similar to the previous year with a mixed approach from the government towards the CSO sector. On the one hand, the government adopted the requirement that annual reports need to be filed by all public organisations (regardless of their size and activity), which CSOs fear will prove burdensome. On the other hand, the annual threshold for mandatory audit of CSOs receiving public funding increased two-fold which eases reporting requirements. There were two additional positive legal developments. Firstly, in addition to environmental issues, CSOs can present public interest cases in the court in the area of protection of the rights of people with disabilities, even though this comes with several complicated preconditions. Secondly, the government adopted the procedure for state funding allocation in January 2021 to regulate the announcing of grant competitions and the related selection process. Several negative developments took place in the area of freedom of expression as hate speech and disinformation reached worrying levels and negatively impacted individuals and CSOs. Specifically, the authorities initiated several legislative amendments under the guise of addressing the increased instances of libel and insult. Media organisations criticized these amendments as a restriction on freedom of expression.

<sup>2</sup> Mehman Aliyev and Others v. Azerbaijan, available at: <https://hudoc.echr.coe.int/fre/#%7Bper%20cent22tabview%20per%20cent22%7Bper%20cent22notice%20per%20cent22%7D%7Bper%20cent22itemid%20per%20cent22%7Bper%20cent22001-210013%20per%20cent22%7D%7D%7D>; Abdullayev and Others v. Azerbaijan, available at: <https://hudoc.echr.coe.int/fre/#%7Bper%20cent22tabview%20per%20cent22%7Bper%20cent22document%20per%20cent22%7Bper%20cent22itemid%20per%20cent22%7Bper%20cent22001-210018%20per%20cent22%7D%7D%7D>.



and public benefit goals, but also a requirement for accounting for entities that provide consultancy contracts and more detailed information to be provided in bank payment orders. Secondly, a new Media Law, which had raised fears in the CSO community that the law could be used to control online media, was adopted.

In **Georgia**, the CSO environment has not made much progress. First, a surveillance scandal showed that the CSO community is being targeted by the state through leaked online documents indicating the covert surveillance of citizens, including of phone conversations and information about the movements of many CSO representatives allegedly by the State Security Service. This is a serious breach of privacy and trust. Separately, the government used the Covid-19 pandemic as the main reason for stalling discussions and multi-stakeholder dialogue under the framework for CSO and government cooperation set out in the Open Government Partnership (OGP) action plans. Further, there has been no progress in ensuring transparency and accountability in state funding for CSOs and eliminating legislative obstacles that would enable local government authorities to issue grants for CSOs. The right to peaceful manifestation is still not effectively protected from arbitrary infringements in practice. For instance, the police failed to protect participants including CSOs and associated individuals, and the LGBTQIA+ community in general, during the 5 July Pride Day attacks.

In **Moldova**, the new parliament and government opened avenues for cooperation with CSOs which can be viewed as positive development for improving the CSO enabling environment. Specifically, two important developments are expected to have a positive effect. First, the entry into force of the [Council of Europe Convention on Access to Official Documents](#) in December 2020 should improve access to public information. Second, relevant to freedom of association, the Law on Local Action Groups was adopted in April 2021. Otherwise, the legal framework overall remains poorly functional when it comes to philanthropy, crimes motivated by prejudice, public procurement of social services and social entrepreneurship. Finally, the Security and Information Service conducted a risk assessment concerning CSOs' vulnerability to terrorist financing but failed either to include CSOs and ensure transparency in the process, or to provide any public conclusions (contrary to international guidance).

In **Ukraine**, constructive dialogue between CSOs and the new government led to the adoption of several key laws and policies, such as the National Strategy for Civil Society Development for 2021-2026, the Cabinet Decree No. 1049 on online competition of projects for CSOs and the development of the draft Law of Ukraine 'On Public Consultations'. However, such progress was overshadowed by the killing of an activist. Additionally, over 90 attacks on other activists working mainly on anti-corruption, environmental issues or LGBTQIA+ rights were recorded in 2021 alone

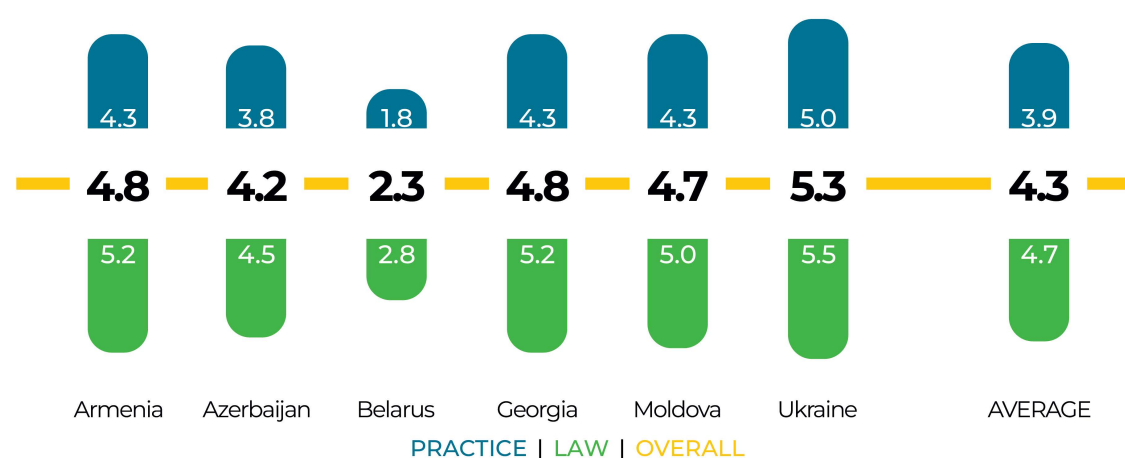


and these remain unresolved. Restrictive laws were presented in Parliament, for instance one equating public advocacy with commercial lobbying and government attempts to complicate procedures for foreign volunteers in Ukraine. CSO work was further burdened by the requirement to provide information on ultimate beneficial owners (UBOs) in a short timeframe and without sufficient information and guidance.

## 2021 CSO Meter Scores: the civil society environment in the EaP

In 2021, we introduced scoring to the CSO Meter methodology and the country reports. Scores are provided by country researchers and by the Advisory Board members in each country. The scores are provided for each of the 11 areas, separately for Law and for Practice. The final score in each area is calculated as a combination of the researchers' score (50 per cent) and the average Advisory Board score (50 per cent). An exception to this rule was made for Ukraine where the score is based only on the one accorded by the country researchers due to the extreme circumstances in the country. Scores are assigned between 1 and 7 (with 1 representing the absolute worst situation for the CSO environment).

### 2021 CSO Meter Scores: Civil society environment in the EaP



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).

Ukraine scored highest in fulfilling the overall standards of Law and Practice of the CSO environment in the EaP region. This is due to the enabling conditions enjoyed in relation to freedom of association and through the existence of a more equitable treatment between businesses and CSOs than in the other EaP countries. Another reason for the high score is the exercise of the right to participation which gives CSOs the opportunity to take part in the decision-making process and the well-developed

CSO-government cooperation which led to the adoption of a new strategy. Ukraine is closely followed by Armenia, Georgia and Moldova. Azerbaijan and, in particular, Belarus have low scores.

Belarus scores the lowest due to the severe legislative restrictions in place there and further destruction of the civic space with numerous violations of human rights and civic freedoms in practice, particularly of marginalized groups, activists and CSO representatives. We note that even Belarus's highest score is lower than the worst score of any of the other countries in any area. Belarus's lowest score of all the CSO Meter areas (from both the Law and Practice scores) is 1.2 for Practice in the area of Freedom of Assembly which means that exercising freedom of assembly in Belarus is impossible.



Highest overall score: Ukraine 5.3

Lowest overall score: Belarus 2.3

Considering the overall scores by country, Belarus ranks last in all areas, while Ukraine is leading in most areas. Armenia is leader in two areas, Freedom of Peaceful Assembly and Right to Privacy. Georgia is also leader in two areas: Freedom of Association and Access to Funding.



Areas with **highest scores** across all countries:

- Freedom of Association 4.9
- Equal Treatment 4.6
- Right to Participation in Decision-Making 4.5



Areas with **lowest scores** across all countries:

- Digital Rights 4.1
- State-CSO Cooperation 4.1
- State Support 4.0

In the overall ranking, which is calculated as the average of the scores for Law and Practice, the **best** area is Freedom of Association, followed by Equal Treatment and Right to Participation in Decision-Making. The bottom three areas are State Support, State-CSO Cooperation and Digital Rights.

## Highest/lowest scores across all areas from all countries both in Law and Practice:



Highest | Georgia | Law | Freedom of Association 6.2



Lowest | Belarus | Practice | Freedom of Peaceful Assembly 1.2

The highest score assigned in the overall CSO environment is for Law in Freedom of Association for Georgia (6.2) which reflects that everyone can associate both offline and online without any difficulties. The lowest score is for Practice of Freedom of Peaceful Assembly in Belarus, which has been significantly affected by the numerous violations of participants in protests, including detentions, harassment, privacy violations, and many other repercussions for any participation in demonstration.



Areas with the highest discrepancy between Law and Practice:

- Right to Privacy 1.5
- Freedom of Expression 1.1
- State Duty to Protect 0.9

The areas Freedom of Association and Equal Treatment are the areas with the highest scores across all countries and the lowest discrepancy between Law and Practice (in all areas, Practice normally ranks lower than Law). The top **three areas with highest discrepancy** between Law and Practice are Right to Privacy, Freedom of Expression and State Duty to Protect. This means that, on average across the countries, there is inconsistent implementation of the law in practice and increased cases of violation of the standards in these areas.

# Key trends in the civil society environment

## 1. Crisis measures (to tackle Covid-19 and conflict) limited civic freedoms and further affected the CSO environment

War, protests, and the Covid-19 pandemic led to various restrictions through the imposition in certain countries of a state of emergency and/or martial law. These crisis situations increased the need for vital services. The role played by CSOs has proven essential in providing humanitarian support and addressing urgent needs. To meet these needs, CSOs shifted their priorities and promptly supported vulnerable populations. This role intensified their cooperation with the authorities (e.g., in Armenia CSOs aided women and children displaced from Nagorno-Karabakh, including the provision of food, shelter, educational and healthcare assistance and assistance to families who lost their homes and to the families of killed, wounded and missing soldiers, etc.). Similarly, in Azerbaijan, CSOs provided rapid assistance to those in need of support in war-affected areas. However, the crucial role carried out by CSOs was not supported by the relevant governments in a significant way, for example through adopting measures to improve access to state support and philanthropy or to encourage volunteerism. On the contrary, CSOs could rarely access the measures that were adopted by the relevant governments to support businesses.

The emergency measures aimed at tackling the Covid-19 pandemic negatively affected the ability to peacefully assemble, to express opinions and to participate in the decision-making process. There were either explicit legal restrictions on certain civic freedoms (on registration of CSOs, on assembly, on publishing materials, access to information, holding consultations, privacy issues, etc.), or general restrictions targeting movement and personal safety measures which impacted CSOs' ability to effectively work. At the same time, some authorities restricted the exercise of these freedoms in practice (for instance, a ban on public assemblies in Moldova) without any legal grounds. These measures were lifted in most of the countries within varying timeframes but there were cases of prolonging their duration for political gain. This was the case in Moldova where the Constitutional Court declared both the state of emergency and the ban on assemblies in place there to be unconstitutional and the president dissolved parliament.

## 2. Digitalization progresses faster than the provision of related protections and the enjoyment of digital rights

All of the countries in the region provide widespread access to the internet, yet digital disparities persist. Georgia is the only country in the region which provides constitutional guarantees on access to the internet. Apart from in Belarus, all of the countries allow internet service providers (ISPs) to operate freely without requiring

control over users. CSOs in the region can benefit from a wide spectrum of digital possibilities to exercise rights online and use e-services for different aspects of the CSO environment. Some digital tools enable freedom of association through electronic registration of CSOs and electronic submission of annual and tax reports. Others enable CSOs and individuals to engage protest online via social media and/or to submit online notifications to call people to assemble on the streets. The right to public participation is also encouraged through electronic petitions, electronic platforms for public consultations on draft laws and platforms to enable access to information. Also, in some countries, e-platforms exist for submitting online applications for state funding.

Digital rights are evolving in the region and in most of the countries, except for Belarus, there are a plethora of laws such as cybercrime laws and other criminal laws, data protection and privacy laws, and those regulating social media companies. These laws usually lack clarity and are too broad, however. In addition, CSOs' increased presence in the online space where widespread disinformation and hate speech have increased and operating in this space and using digital tools without protections has proven harmful to CSOs and related individuals. Violations on CSOs' right to privacy (surveillance online and leaking of personal information), expression (blocking of materials and websites, internet shutdowns and slowdowns) and on the ability to enjoy digitally-mediated assembly (creating 'watch lists' of participants in protests in Belarus) in different contexts have been noted.

The development and use of digital technologies, including artificial intelligence (AI) and automated systems, is not regulated. There is a lack of information on whether in practice state institutions and the private sector conduct human rights due diligence, including impact assessments, and provide transparency into the design, development, and deployment of digital technologies. Only Ukraine worked on an AI Development Concept and Ukrainian CSOs are increasingly investigating the implications of the development and use of digital technologies including AI and automated systems on human rights and trying to engage with state institutions in this area.

### **3. CSOs face increased attacks, stigmatization, and surveillance**

CSOs and activists across the region faced serious interferences from state authorities and from third parties, including attacks on their work and life. In Ukraine, one activist was killed, while over 90 attacks on other activists working mainly on anti-corruption, environmental issues and LGBTQIA+ rights were recorded in 2021 alone. In Belarus, CSOs and activists are continuously subject to serious interference in their activities, and individuals have been the victims of attacks, torture, and even killings. Besides physical attacks, activists have also suffered verbal attacks and intimidation

via political speeches, in traditional and online media, and also through cyberattacks, trolling and doxing.<sup>3</sup> Surveillance scandals in several countries unmasked unlawful state monitoring of the movements and communications (phone conversations, personal communication online) of CSOs and activists.

Stigmatization and smear campaigns against CSOs have increased and have manifested in different forms. The main targets are CSOs working on LGBTQIA+ rights, women's rights/domestic violence and human rights organisations. CSOs receiving foreign funding are more often subject to harassment, hate speech, and physical and verbal attacks by third-party organisations and groups both online and offline that usually portray them as being under foreign influence that is trying to undermine the state. Such practices have resulted in, for instance, attacks on the offices of Open Society Foundations during protests in Armenia and attacks during Pride Week in Georgia resulted in the death of one journalist and 55 people injured alongside attacks on the organisers' offices. In Belarus, stigmatization against CSOs materialised through stricter limitations on access to funding and even criminal charges on tax evasion and forced liquidations for CSOs that use foreign funds. Another prevalent form of stigmatization is when high-level government officials and politicians attack the civil society sector and use negative rhetoric against specific CSOs (for instance, watchdog organisations) and their representatives. Such public attacks negatively affect CSOs and their public image which may ultimately lead to less support (including financial support) from the general population.

The procedures that the state provides via the courts and different state bodies to protect the rights of CSOs and activists are usually inefficient, complicated and lengthy which further discourages CSOs from pursuing these avenues. Certain institutions have tried to advocate for the elimination of such negative practices against CSOs (for instance, the Human Rights Defender in Armenia issued a statement calling for a halt to hate speech and insults against CSOs and the Ombudsman in Georgia called for fines on protesters to be revoked).

#### 4. Limitations and burdensome requirements on access to funding

Limitations and burdensome requirements create further difficulties for CSOs to **seek, receive, and use financial and material resources** across the region. Belarus and Azerbaijan place serious restrictions on access to funding, particularly from **foreign sources**. In addition, there are numerous other restrictive provisions in place, such as the inability of CSOs to engage in entrepreneurial activities in Belarus and limitations on cash donations. CSOs in other countries are facing difficulties and

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<sup>3</sup> Doxing (or doxxing) is the act of publicly revealing previously private personal information about an individual or organisation.

unfavourable developments, such as burdensome audit requirements in Armenia. In Ukraine, social entrepreneurship and donations via mobile Short Message Service (SMS) are still underdeveloped. Another issue is the **lack of meaningful tax benefits** for CSOs and for their donors. Namely, the lack of tax benefits available to stimulate donations negatively affects CSOs' opportunities to seek alternative funding.

## 5. AML/CTF measures have further continued to create burden over CSOs

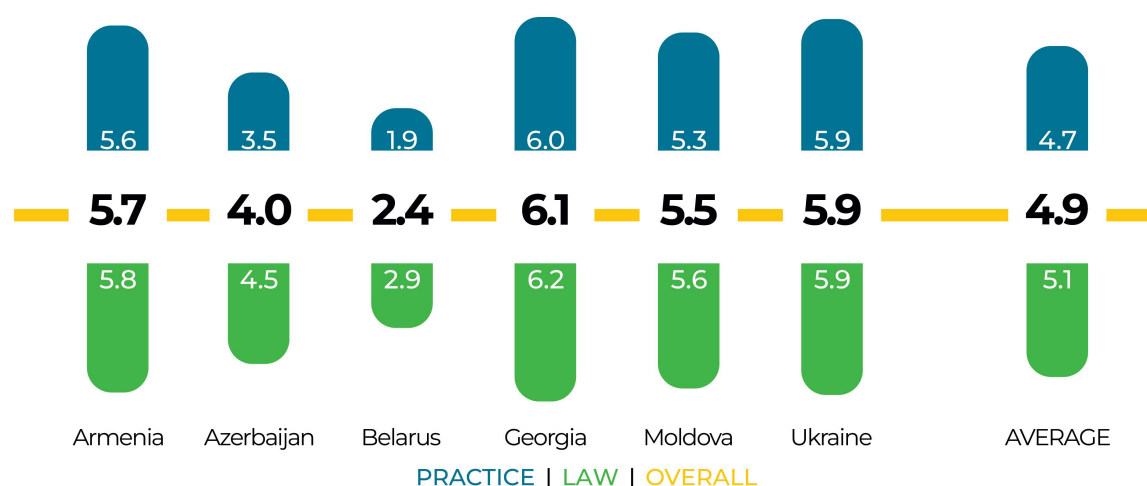
The impact of anti-money laundering and counter-terrorism financing (AML/CTF) regulations has increased and this places a serious burden on the work of CSOs. In the case of Belarus, state interference under the pretext of these measures has resulted in mass liquidation of CSOs, arrests and criminal charges against persons associated with CSOs. The measures have had a significant impact on freedom of association, assembly, expression and privacy, and access to funding in several countries. The main reason for these developments is the **lack of a risk-based approach** from the authorities when designing and applying the measures, as well as a **lack of involvement of CSOs** in the risk assessments. For example, in Moldova, the relevant institutions implemented a risk assessment of the CSO sector but without including or informing CSOs. Such practices later **translate into burdensome requirements** for CSOs. For example, authorities request that CSOs disclose their UBO, or banks apply stringent evaluation procedures on CSOs as clients. The latter also prevents some organisations from accessing funding received into their own bank account or to accessing funding generally (for instance, through different fundraising tools, such as crowdfunding, and other digital fundraising methods). CSOs normally face problems complying with the burdensome requirements because many of them are small and lack paid full-time staff and guidance. In addition, not following the measures leads to disproportionate sanctions against CSOs.



## II. FINDINGS

### 2.1 Freedom of Association

#### Area 1. Freedom of Association



Freedom of Association is the area with the highest overall scores in this report. Georgia has the highest score out of all of the countries in this specific area and this score is the highest from all areas (6.2 for Legislation). Two countries trail behind in this area: Azerbaijan and Belarus. Armenia, Georgia, Moldova and Ukraine have laws and practices that allow for easy registration and operation of CSOs.

Freedom of association is guaranteed in the constitutions of all EaP countries, except for Moldova. However, in Belarus and Azerbaijan violations on the right to freedom of association continue to persist and even worsen. In Belarus, foreigners cannot establish CSOs and unregistered associations are forbidden with severe criminal punishments for violation. The authorities have also forcibly liquidated prominent CSOs and numerous CSOs have been forced to self-liquidate, and/or relocate and continue their activities from abroad for security reasons. In Azerbaijan, the MoJ continues to create illegal obstacles to registration in practice and often refuses to register CSOs.

In Armenia, Georgia, Moldova and Ukraine everyone can freely establish, join, or participate in a CSO. CSOs can determine their objectives and operate inside and outside of the country and they are free from state interference. The procedure to register a CSO as a legal entity is clear, simple, quick and inexpensive, and operating an unregistered association is possible. Finally, any sanctions imposed are mainly clear and consistent with the principle of proportionality. Several positive developments have also been identified. In Ukraine, online registration of charitable organisations is now possible. In Armenia, the state bodies responsible for registration and reporting increased their awareness-raising efforts and support for CSOs.

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

There are constitutional guarantees for freedom of association in all countries, except for Moldova. Different forms of organisation can be established and operate, and in some countries the state regulates this with specific laws (Azerbaijan, Belarus, Moldova and Ukraine) and in other countries as part of the Civil Code (Armenia and Georgia). **Any person, legal or natural, local or foreign, and groups of such persons** can establish, join, or participate in a CSO in most of the countries of the region. Foreign persons are restricted from establishing a CSO in Azerbaijan and Belarus. In Belarus, foreigners cannot be the founders of a public association, while, in Azerbaijan, only foreign citizens and persons without citizenship who permanently reside in Azerbaijan can establish a CSO. This requirement applies to both the founders and legal representatives of CSOs.

CSOs across the region are free to operate on the territory of the relevant country or in parts of it and only Belarus imposes **territorial limitations on the operation of CSOs**, as local CSOs cannot operate outside of their designated territory.

CSOs **are not required to register or have a legal entity to operate** in all of the countries with the exception of Belarus; unregistered organisations can exist, yet they either cannot receive or face more burdensome procedures in receiving state support, owning property and opening a bank account or being subject to taxes. In sharp contrast, in Belarus, the state does not allow unregistered organisations to operate and legislation provides for sanctions for individuals who do so (monetary fines and prison sentences). For registered CSOs, their cooperation with or membership in unregistered organisations is a ground for their liquidation (for example, the public association 'Ecohome' was liquidated for this reason). At the same time, Belarusian citizens are subject to involuntary membership in 'pro-government' public associations such as the Belarusian Republican Youth Union, the public association 'Belaya Rus' and trade unions belonging to the Federation of Trade Unions of Belarus. The latter is impossible to withdraw from due to threats of dismissal and other consequences for workers.

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

There is a lack of accurate and valid information regarding the number of active registered CSOs, across the region, and the challenges persist (unclear definitions of the different types of CSOs and their categorization, complicated liquidation processes which discourage founders to pursue them and the CSOs remain inactive, etc.). Georgia and Moldova have relatively high number of registered CSOs per 10,000 inhabitants (78 and 44 respectively). While in Azerbaijan and Belarus there are only 4.7 and 3.5 CSOs per 10,000 inhabitants respectively.

Table 1. Number of registered CSOs in the EaP region

Country	Number of CSOs	CSOs per 10,000 inhabitants
Armenia	6,983	23.6
Azerbaijan	4,766	4.7
Belarus	3,205 <sup>4</sup>	3.5
Georgia	29,040	78
Moldova	11,486	44
Ukraine	160,000	16

The **procedure to register a CSO as a legal entity is generally clear and simple** in Armenia, Georgia, Moldova, and Ukraine. Registration is relatively **quick and inexpensive**; it takes place in one day in Georgia, and it is free of charge in Ukraine and Moldova. In Azerbaijan, even though the registration fee is relatively low, the timeline for registration is quite long and can last up to 60 working days and result in a refusal to register. Similarly, in Belarus, the timeline for registration is up to one month (if possible) while the registration fees differ per type of CSO and are among the highest in the region. There are no minimum capital requirements when registering any type of CSO in the EaP countries, except for in Azerbaijan and Moldova where the capital requirement for establishing a foundation and a private institution is 5,000 EUR and 900 EUR respectively. Online registration is only available to CSOs in Georgia and Ukraine, while in Armenia, Azerbaijan and Belarus it is only available for other legal entities but not to CSOs. In Moldova and Ukraine, regional centres engage in the registration of CSOs as well as the central authorities. The number of registered CSOs has increased in all of the countries.

<sup>4</sup> This number includes 1) Public associations: 2,978 (226 international, 785 national and 1,967 local); 2) Foundations: 227 foundations and 3) Private institutions (unknown number).

Table 2. Registration requirements

Country	Type of CSO	No. of founders	Capital for establishment in EUR	Registration fee	Registration processing time	Online reg.
Armenia	Public organisation	2 or more <sup>5</sup>	No	18 EUR	10 working days	No
	Foundation	1 or more				
Azerbaijan	Public organisation	2 or more	No	5.5 EUR	30-60 working days	No
	Foundation	1 or more	5,000 EUR			
Belarus	Public association	10 citizens (local) 50 citizens (national)	No	40 EUR (local) 80 EUR (national and international)	1 month	No
	Foundation	1 or more	800 EUR (local) 8,000 EUR (national and international)	40 EUR (local) 80 EUR (national and international)	1 month	
	Private institution	1 individual or one legal person	No	4 EUR	/	
Georgia	Non-entrepreneurial legal entity (NELE)	1 individual	No	30 EUR (standard procedure) 60 EUR (urgent procedure)	Standard: 1 working day Urgent: same day	Yes
Moldova	Public association	2 or more <sup>6</sup>	No	Free	15 days	No
	Foundation	1 or more	No express provision (minimal, e.g., 5 EUR)			
	Private institution	1	900 EUR			
	Association in the form of local action group	3 or more <sup>7</sup>	No			
Ukraine	Public Association	2 or more <sup>8</sup>	No requirement	Free	3 days	Yes
	Charitable organisation	2 or more			24 hours	

<sup>5</sup> In Armenia and Azerbaijan for both types of CSOs, founders can be both individuals and/or legal entities

<sup>6</sup> In Moldova, founders for all types of CSOs can be legal or physical persons.

<sup>7</sup> Local action groups are founded by legal or physical persons representatives of public, commercial and civic sectors.

<sup>8</sup> In Ukraine founders for both type of CSOs can be individuals and/or legal entities.

In Belarus and Azerbaijan, there are several cases of **denied registration without clear and justifiable** grounds. While in Belarus, one of the major obstacles to registration is obtaining a legal address in non-residential premises. In May 2021, a decision of the ECtHR found Azerbaijan to be in violation of 25 CSOs' right to freedom of association by denying registration.

In the rest of the countries, **organisations generally receive timely information and support from the registration authority staff** to overcome inconsistencies during the application procedure. However, there are many cases in which the registration authority staff lack knowledge and understanding and request submission of additional documents and information which differs from the published list of documents or require adjustments to the applicant CSO's charter that are not in line with the legal requirements, representing discretionary application of the law. Opportunities for review of a decision on registration are available both at a higher administrative level than the registration authority (e.g., the MoJ) and/or via the courts.

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

In most of the countries, except for Belarus and Azerbaijan, **CSOs can determine their objectives** and carry out any legitimate activities.

**Registration authorities** in Azerbaijan exercise **discretion in the review** of CSOs' objectives. For example, they might not allow a CSO to add the word 'youth' in its charter, as this results in eligibility for state grants from the Youth Fund. Also, there is an informal procedure to seek permission from the President's Office to hold events, which restricts CSOs' ability to carry out their legitimate activities.

In Belarus, CSOs are not free to choose their goals or to determine their activities, and they are subject to serious interference and attacks on their activities by state bodies. In 2021, the state authority executed unprecedented mass searches and persecution, intimidation, and pressure on members of CSOs. These members were subjected to administrative and criminal liability (including imprisonment). The repressive apparatus is deployed against the broad spectrum of CSOs having a diverse range of activities, located throughout the entirety of the country or those that relocated abroad. Informal organisations have become targets for prosecution under the laws on extremism and terrorism. According to the Prosecutor General's Office, following the presidential election, more than 5,000 criminal cases have been brought against protesters, human rights defenders, election observers, journalists and media, CSO leaders and activists. A range of these cases are related to citizens' participation in associations and CSOs' activities.

**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.**

There are a **broad range of sanctions for CSOs** in Azerbaijan and Belarus including those which are general and apply to all individuals and legal entities and those which are specific to CSOs. However, there are uncertainties in their interpretation and they are disproportionate and unnecessary. In Azerbaijan, there are no warnings issued before imposing sanctions and the fines are very high. For example, sanctions are imposed when a CSO fails to register a grant (2,600-3,700 EUR) or fails to include the source and amount of a donation in its financial reports submitted to the Ministry of Finance (2,600-4,200 EUR). Also, any person or entity that provides a cash donation to a CSO over a threshold of 110 EUR is penalized (130-260 EUR for natural persons; 400-800 EUR for managers of legal entities and 1,800-3,700 EUR for legal entities). In the other countries in the region, the **sanctions are defined by law and are generally lawful and proportionate**. They are **provided for CSOs** that are violating reporting requirements, carrying out activities in contradiction to the goals specified in their charter, sharing excess income between members of founders, or who fail to disclose their UBO for AML/CTF purposes.

Most of the countries in the region have legislation on the **grounds for involuntary termination and suspension** of CSOs and use these grounds in practice only in cases of serious violations. In Azerbaijan, involuntary termination is provided for where a CSO fails to rectify any deficiency indicated by the MoJ and after more than two warnings in a year. In Moldova, the failure to provide the annual activity report on repeated request of the MoJ is grounds for involuntary termination on the condition that this is necessary in a democratic society.

In Belarus, the **forced liquidation of CSOs** is practiced widely and has increased dramatically during 2021. As of the end of 2021, nearly 320 CSOs of different forms are in the process of forced liquidation and hundreds of other CSOs, some considered as the pillars of Belarusian civil society, have been dissolved through judicial and extrajudicial channels (including the most established and oldest organisations). Local authorities tend to force CSOs to decide on self-liquidation.

The most common official reasons for the forced liquidation of public associations in Belarus are alleged violations of a technical nature of mandatory AML/CTF reporting requirements (which provide for excessive interference in the activities of all CSOs indiscriminately) or failure to provide documents at the request of the registration authority during an audit (which has become very difficult after searches and seizures of documents). Most forcibly-liquidated CSOs are dissolved according to a simplified system, without a court decision, and by order of a law enforcement or tax authority. At the same time, forcibly-liquidated CSOs most often receive a notice of liquidation without any explanation of the grounds for such liquidation. Representative offices of international organisations also became subject to a campaign of 'purges' against the

civil society sector in 2021. For example, the offices of the German Goethe Institute were withdrawn from state accreditation and forced to close, as well as those of USAID and DVV International.

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

In most of the countries in the region, **CSOs are free to determine their internal governance** and operations. Rules on the scope, criteria and limitations on **monitoring and inspection** of CSOs by the state are lacking in Belarus, however. In Azerbaijan, the existing rules are unclear and burdensome. In other countries, there are minor inconsistencies and different reporting rules depending on the type of CSO, its activities, budget and staff (for example, simplified reporting forms, or periodic reporting on sources of income, and/or different taxes).

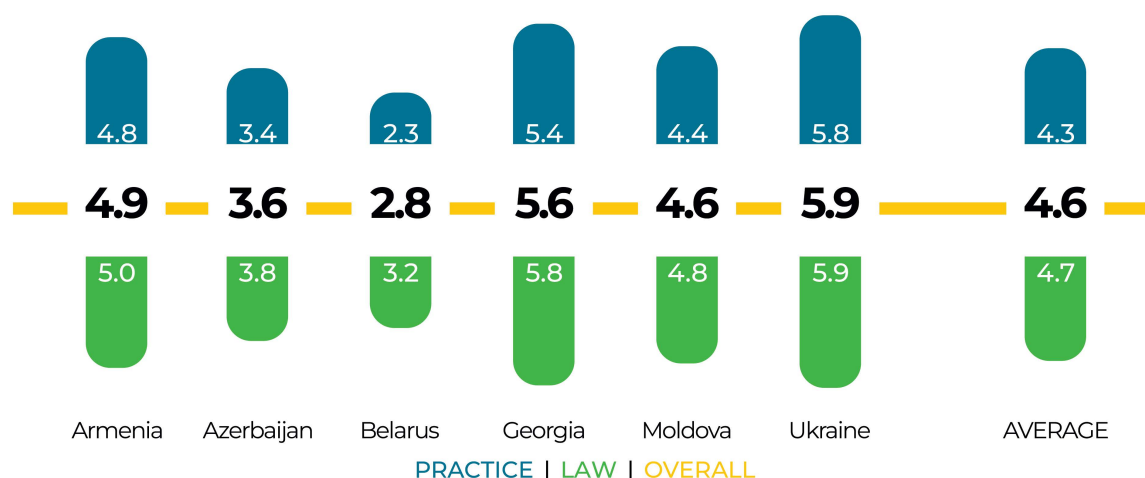
In Azerbaijan, CSOs face a heavy reporting burden which they struggle with due to lack of financial resources and their inability to retain employees. This makes them vulnerable to inspections and subsequent penalties which can lead to the termination of their operations. Namely, the MoJ prepares an annual list of CSOs to be inspected (to verify if they have registered their grants, service contracts and donations, the validity of the excerpt and other issues). When carrying out inspections, the MoJ can issue a warning to a CSO or apply a penalty (since 2020, the MoJ issued only one warning, the lowest number compared to all previous years).

In Belarus, CSOs are faced with burdensome inspections (with extensive documentation required) that lack justification and are disproportionate. After searches were carried out in the offices of a significant number of CSOs, their bank accounts were blocked. The financial activities of CSOs are subject to audits by financial investigation agencies, economic crime prevention agencies, and the tax authorities. These methods are used for the dual purpose of intimidating and pressurising CSOs while the results of the inspections are the basis for liquidations and criminal cases. Since May 2021, the Justice Department has also engaged in a mass inspections of CSOs. Regardless of the outcome, inspected CSOs received written warnings and were then forcibly liquidated. These inspections usually allow the authorities to better prepare for court evidence about liquidation. In the second half of 2020, there were at least eight known cases of court decisions on forced liquidation of CSOs related to alleged violations of AML reporting (even though the grounds for liquidation were only of a technical nature).



## 2.2 Equal Treatment

### Area 2. Equal Treatment



Registration procedures (timelines, fees and other aspects), reporting requirements and taxation benefits are more favourable for the business sector compared to CSOs. In all countries of the region, there is preferential treatment for certain CSOs, which is mostly based on unclear criteria.

Ukraine, followed by Georgia, are the leaders in this area. Georgia has the exact same fees and timelines for CSOs and businesses, while Ukraine has the lowest gap between CSOs and business entities in the length of time that registration takes. In addition, Ukraine provides free-of-charge registration for both businesses and CSOs, as well as lower fees for CSOs to amend information than businesses. Belarus has the lowest score due to the general situation of CSOs, and, in this area particularly, the discriminatory treatment of the state that only allows the operation and activity of pro-governmental organisations.

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

All countries of the region provide legislative procedures for registration and voluntary termination of CSOs. These procedures are mainly either more expensive or time consuming, and, in different ways, more burdensome compared to business entities.

Table 3. Comparative overview of registration rules between CSOs and business entities

Country	Processing Days		Fees in EUR		Other comparisons
	CSOs	Businesses	CSOs	Businesses	Both
Armenia	10 days (2 days for public associations using standard charter template)	2 days (immediate for companies using standard charter template and for individual entrepreneurs)	18 EUR	Free or 5.4 EUR for individual entrepreneurs	Online registration is not available for CSOs but is for businesses

Azerbaijan	30-60 working days (MoJ)	1-3 working days (Tax service)	5.5 EUR	5.5 EUR	Denial of registration happens often for CSOs but rarely for business entities
Belarus <sup>9</sup>	30 days for public associations	1-2 working days	4 EUR: private institutions 40 EUR: local foundations and public associations 80 EUR: national and international public associations and for national and international foundations	10 EUR for simplest legal forms for businesses	/
Georgia	1 day	1 day	30 EUR 60 EUR: for accelerated procedure	30 EUR 60 EUR: for accelerated procedure	/
Moldova	15 days	1 day 4 hours: urgent procedure	Free	18 EUR: Individual entrepreneur. 55 EUR: Other business 220 EUR: Urgent procedure	CSO need: more burdensome documentation for registration; technically outdated register
Ukraine	3 days: public association	1 day	Free	Free	Legal entities can be registered via the <i>Düa</i> portal, while CSOs cannot. The fee for amendments to CSOs' information is three times lower than for other entities

In several countries, state authorities subject CSOs to **stricter administrative and operational requirements** compared to business entities in terms of reporting, working with banks, and applying fines. For example, in Azerbaijan all CSOs need to submit annual financial reports to the MoJ and failing to follow the rules might result in termination, unlike for businesses. In Moldova, CSOs submit annual financial

<sup>9</sup> Registration procedures were illegally suspended in practice in 2021. Yet registration is still ongoing for businesses. For CSOs, there are often unclear grounds for refusal of registration.

reports to the State Fiscal Service and they also publish narrative reports. The failure to follow this rule might result in termination following repeated requests from the MoJ. There are also examples of greater difficulties in working with banks in the region. For example, in Moldova, banks are subject to burdensome requirements for CSOs that want to participate in public procurement through the requirement for bank certificates (with a 10 per cent guarantee) and a certificate of proper performance of the contract (a bank guarantee of a maximum of 15 per cent for the winner of the contract). In Azerbaijan, CSOs are deprived of loan access and some banks do not issue business bank cards to CSOs, whereas for businesses there is no such limitation.

CSOs are **usually not able to receive the same benefits as businesses, especially in the taxation** field. CSOs are legally allowed, except for in Belarus, to compete in **public procurement** on an equal basis with business entities. Yet, in practice, the criteria in the tender, combined with other burdensome financial and reporting requirements (e.g., the need for an audit report in Armenia, or the need to pay a fee to take part in a tender in Azerbaijan and the many burdensome documents required from banks in Moldova) make it very difficult for CSOs to compete in public procurement tenders.

**The regulation on access to funding for CSOs, including funds from abroad, is more restrictive compared to business entities** in Azerbaijan and Belarus. In Azerbaijan, in order to be founders of CSOs, individuals need to have permanent residency, which is not a requirement for establishing a business entity. Also, any foreign citizen can invest in businesses, whereas foreign funding in the form of a donation to a CSO is prohibited. Similarly, CSOs are required to register all their income from a foreign source, whereas businesses are only required to register grants.

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

In all countries of the region, certain CSOs enjoy preferential treatment regarding state funding and in-kind support (e.g., certain CSOs that work with persons with disabilities in Moldova and Ukraine and children, youth, and veteran CSOs in Ukraine). However, such treatment is not substantiated with clear criteria in all cases. In Belarus, the state provides access to resources (in-kind state rent office benefits, state funding, tax and other benefits) either to specific organisations or to approved lists of organisations.

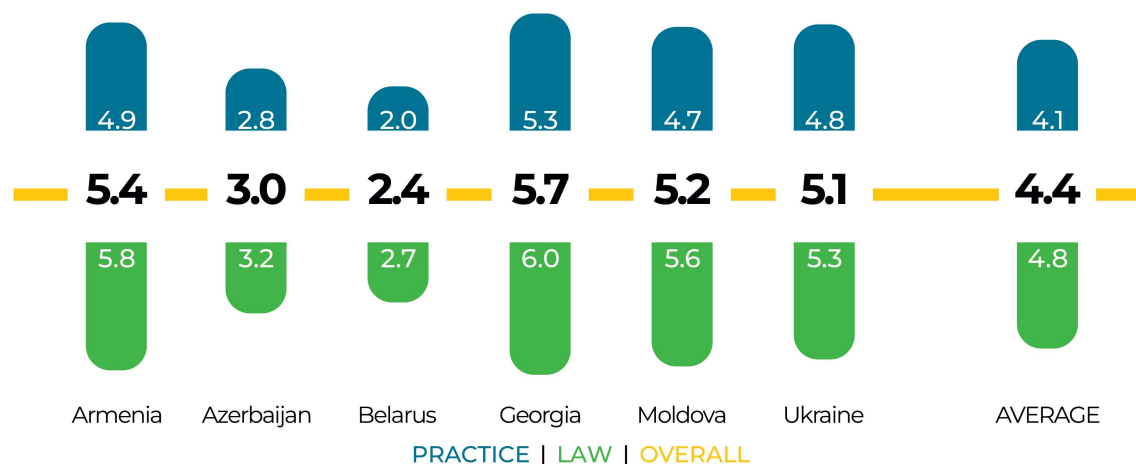
CSOs established in the **country by foreign individuals or legal entities are treated somewhat differently** in some of the countries of the region. For example, in Azerbaijan and Belarus, few foreign CSOs face limitations. In Belarus, in September 2020 the MoJ, without legal grounds, declared the illegality of the activities of foreign and foreign-based foundations. In Azerbaijan, only foreign citizens and persons

without citizenship who permanently reside in Azerbaijan can establish associations, which is itself a violation of international law. There are more burdensome procedures for organisations established by foreign individuals in other countries of the region, too. For example, in Georgia, these organisations are subjected to more stringent evaluation procedures from banks in terms of AML/CTF internal policies. In Ukraine, there are special requirements for registration documents submitted by foreign natural persons or legal entities (such as the need for legalization or apostille).

In all countries, the **preferential treatment towards specific CSOs** is expressed in various ways, namely selective approaches and/or ignored contributions when it comes to involvement in decision-making through various bodies, or in working groups and consultative meetings (e.g., Armenia and Azerbaijan) and awarding state support (e.g., Armenia, Azerbaijan, Moldova). Also, in general, the treatment of CSOs that provide social services is much better than of CSOs working on human rights and having watchdog roles (e.g., Armenia and Azerbaijan).

## 2.3 Access to Funding

### Area 3. Access to Funding



Access to Funding is one of the areas in which there is a significant gap between the score for Law on average across countries (which is better enabled) and the score for Practice. Georgia is the leader in this area in both Law and Practice. Belarus has the lowest score out of all the countries. Azerbaijan also has its lowest score in this area both in Law and Practice.

In most of the countries of the region, except for in Belarus and Azerbaijan, CSOs are free to seek, receive, and use financial and material resources for the pursuit of their objectives. In Belarus, state approval is needed to receive foreign funding, and entrepreneurial activities are not allowed to be undertaken by CSOs. In Azerbaijan, access to funding remains limited, with excessive requirements in both law and practice for registering income from a foreign source (including a service contract with a foreign client). Azerbaijan and Belarus also have differential treatment regarding financial and material resources received from foreign and international sources compared to domestic ones. CSOs in Armenia, Moldova and Belarus continue to be stigmatized for receiving foreign funds.

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

In most of the countries of the region, except for Azerbaijan and Belarus, CSOs are **free to solicit and receive funding or in-kind support from public or private donors** through various mechanisms. CSOs can collect resources from diverse sources which are also regulated in law, such as membership fees, conducting economic activities, social entrepreneurship, state funding, donations (traditional donations, crowdfunding, SMS/online donations), a percentage designation mechanism (in Moldova) and foreign funds.

In Belarus and Azerbaijan, CSOs are **restricted in their possibilities to seek, receive and use financial and material resources for the pursuit of their objectives**. In Belarus, restrictions are imposed on both foreign donations and

donations from Belarusian corporate donors, both financial and in-kind. Public associations cannot independently conduct entrepreneurial activities. The only unrestricted source of funding for CSOs are membership fees. Public associations are also banned from having bank accounts and from keeping money abroad. In Azerbaijan, a few types of donations are prohibited: anonymous donations, donations from foreigners and stateless persons and cash donations exceeding 110 EUR. Only charities can receive cash donations, despite the lack of a clear procedure for obtaining the status of a charity. Additionally, the passport details of each donor, even for a donation of just 20 cents, must be recorded and submitted to the Ministry of Finance. A working group was established in the Parliamentary Committee in 2020 to draft a law on charitable activities. However, since then, no further decision has been taken. CSOs having legal entity status can also access state funds from 18 government donors as grants, or as a service provision and enjoy certain tax benefits, but the procedure is burdensome. Since 2020, CSOs in Azerbaijan can access 10 per cent income tax deductions from commercial companies if they are engaged in the area of culture. CSOs were not involved in the development of this mechanism and, as a result, the criteria are too limiting for it to be beneficial.

The legal **requirements for CSOs to receive, use and report funding or in-kind support** from any donor in most of the countries in the region are not overly-burdensome. However, there are certain provisions that are complicated and there is a lack of different types of tax benefits for CSOs. In Armenia, the law requires mandatory audit for foundations, as well as for public organisations that receive state funding (in cases where their assets or state funding reach a certain threshold), which is especially burdensome for CSOs that receive grants which do not have specifically-allocated funds for audit costs and in-kind donations are taxed with VAT. Additionally, some potentially important sources of funding for CSOs such as social entrepreneurship, crowdfunding, or SMS charity, even though increasingly practiced in some countries, are still underdeveloped in law.

CSOs in all the countries of the region, except for Azerbaijan and Belarus, use diverse methods for fundraising, even though there is a high dependency on funding from foreign donors. Mainly bigger and more established organisations from the capital cities can access this funding, while smaller CSOs from the rural areas or informal initiatives efforts are unsustainable. In the case of Belarus, the situation is even worse. The leaders of CSOs that organised crowdfunding and used other digital fundraising tools to support people that suffered from brutality and political repression have been imprisoned and subject to criminal charges (e.g., *MolaMola* and the fundraising campaigns *BySol* and *Byhelp*).

In several countries (Azerbaijan, Moldova and Ukraine), CSOs **face burdensome requirements when it comes to receiving, using, and reporting funding, mainly**

**due to AML/CTF legislation** measures and bank rules. In Azerbaijan, banks verify the grant registration of all grants (including foreign ones) before allowing CSOs to access their funds. In Moldova, CSOs must provide additional documentary justification to banks for transfer of any refunds to donors abroad. In Ukraine, the national bank restricts digital fundraising sources for CSOs (i.e., to PayPal and cryptocurrencies). However, systematic legislative changes were introduced for the use of 'virtual assets' (including cryptocurrencies).<sup>10</sup>

CSO activities in some countries are impeded by **limitations on cash or bank operations**. In Azerbaijan, there is a limit for cash operations (8,300 EUR per month) which applies to all legal entities,<sup>11</sup> and limitations on receiving cash donations exceeding 110 EUR. In Belarus, critical CSOs and human rights defenders' activities were heavily impeded. Authorities froze numerous bank accounts after a series of searches and arrests of CSO members and activists in February and July 2021. CSOs are deprived of the opportunity to dispose of the donations collected and the assistance received (for example, the Investigative Committee blocked the bank account of the organisation 'Names', which collected more than 500,000 EUR to support charitable projects; for example, for nannies caring for orphans in hospitals, or terminally ill children in a hospice). In Ukraine, banks have numerous burdensome practices that affect CSOs' activities: the transfer of funds in a foreign currency is considered a foreign economic activity that requires additional documents to prove the origin of funds; a lack of consideration of the specifics of CSOs (the meaning of 'founders' in the CSO context, mandate of governing bodies) which complicates processes, e.g. the bank account validation procedure, the procedures for transferring membership fees from CSOs to international organisations and for paying fees to foreign speakers or experts for services are complicated.

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

In most of the countries of the region, except for Belarus and Azerbaijan, CSOs can freely receive and use foreign and international funding or in-kind support, as well as donors to provide funding to CSOs. In Azerbaijan, CSOs' access to foreign grants, donations and service contracts has been seriously impeded since 2014 when several restrictive provisions were introduced for foreign donors (i.e., the requirement to have representation in Azerbaijan, to sign a special agreement with the MoJ and to prove the economic-financial expediency of the project). There is no criminal prosecution for receiving foreign funding, however.

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<sup>10</sup> ECNL. December 2021. 'Regulation of digital fundraising methods in Ukraine', [https://ecnl.org/sites/default/files/2021-12/UKR\\_per\\_cent20digital\\_per\\_cent20fundraising\\_per\\_cent20final.pdf](https://ecnl.org/sites/default/files/2021-12/UKR_per_cent20digital_per_cent20fundraising_per_cent20final.pdf).

<sup>11</sup> Ibid.



In Belarus, foreign funding received by CSOs may be classified as foreign gratuitous aid or international technical aid only with the approval of the state. The procedure for the receipt, registration, and use of gratuitous foreign aid is difficult and burdensome and usually results in refusal. Since the end of 2021, amendments to laws further tightened the definitions of foreign donors (to include Belarusian citizens permanently residing outside of Belarus for more than 183 days out of 12 months) as well as foreign anonymous donors (which includes not only the anonymous donors, but also the individual that did not reveal the donor's identity in a relevant payment document). Reporting requirements also increased, requiring information about each donor organisation of foreign origin and the exact amount received from them. CSOs in Azerbaijan and Belarus where foreign funding is restricted face difficulties in receiving and using foreign funding in practice. In Azerbaijan, only a few foreign grants were registered during the reporting period. In Belarus, the responsible body that decides on the registration of foreign gratuitous aid (the Department for Humanitarian Affairs of the Presidential Administration) refuses the requests of most CSOs to register the foreign aid received.

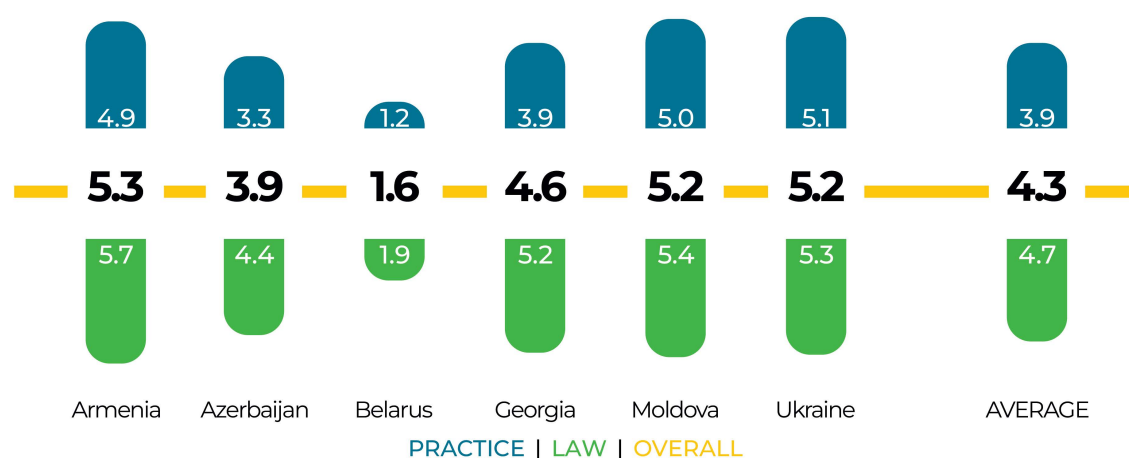
In some countries of the region, such as Armenia, Moldova and Georgia, where foreign and international grants, donations, and membership fees are not restricted, these sources of funding are provided with more beneficial tax treatment compared to donations from domestic sources. Namely, if the funding comes from specific foreign sources (for example, the EU, USAID) and is based on special inter-governmental agreements, CSOs may be exempted from VAT when purchasing goods or services under grant projects. In Armenia, in cases of funding from other sources, tax exemptions can be provided by decision of the relevant authorised body qualifying the specific projects as charitable; this is a long and bureaucratic process, however. In Armenia, goods received from abroad are subject to customs duty unless they are imported in the framework of charitable projects. Similarly, in Moldova, goods can be subject to customs clearance.

In several countries of the region, including Armenia, Moldova and Belarus, CSOs receiving foreign funding are stigmatized and attacked in state-supported media or by the government. Such cases negatively affect the public image of CSOs and weaken trust and links with constituents. In Armenia, smear campaigns are led against human rights CSOs, particularly those funded by Open Society Foundations and associated persons are accused of supporting an 'anti-Armenian' agenda. There are instances where local government or law enforcement representatives have labelled CSOs that are critical as *sorosakan* (a reference to George Soros, the founder of Open Society Foundations) to further discredit them. Similarly, in Moldova, the use foreign funding by CSOs is an issue mostly used by political leaders with illiberal ideologies (with the support of affiliated media and groups) to launch attacks against CSOs (for example, an MP published a book that attacks foreign-funded CSOs that work mostly on issues

such as human rights, anticorruption, and justice reforms). In Belarus, state television and state newspapers have published numerous news items during 2021 alleging that CSOs commit financial improprieties, evade taxes, and finance protests using foreign grant money, including via corruption and the misuse of funds in cooperation with the local UN office in Belarus.

## 2.4 Freedom of Peaceful Assembly

### Area 4. Freedom of Peaceful Assembly



Freedom of Peaceful Assembly is the area with the lowest score across all countries and areas, the very lowest being the score for Practice for Belarus (1.2). Armenia has the highest overall score for Freedom of Peaceful Assembly, closely followed by Moldova, Ukraine and Georgia.

Freedom of peaceful assembly is guaranteed in the constitutions in all countries in the region, yet these guarantees are not reflected in practice. Ukraine is the only country that does not have a law regulating freedom of assembly; still, everyone is able to exercise peaceful assembly in Ukraine. The emergency measures and martial law applied in certain countries translated to legal bans on the right to assembly that were disproportionate and unnecessarily applied. In spite of this, assemblies continued to take place both physically and virtually, although these included a few cases of the disproportionate use of police force on protesters related to the restrictions.

There were numerous cases of violations of this right in several countries, particularly in Belarus and Azerbaijan. In Belarus, the repressions and crackdowns on peaceful participants by the authorities in the first half of 2021 shrank the possibilities for exercising this right further, and by the end of the year there was almost no possibility to exercise peaceful assembly. In Azerbaijan, organisations face serious obstacles in practice, such as the informal requirement to seek permission to hold events. Certain groups, such as LGBTQIA+ activists faced significant obstacles in practicing their right to peaceful assembly.

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

Most countries of the region guarantee freedom of peaceful assembly in their constitution and via a specific **law for any person, local or foreign, and groups of such persons, including CSOs** to assemble, except for in Ukraine and Belarus. In Ukraine, this right is guaranteed in the Constitution, but not in law. While in Belarus, all assemblies are forbidden, except those for which a special permit is granted. But de facto, local authorities cannot give such permits as there is no process to apply for a permit in the prescribed form because the Ministry of Internal Affairs does not sign prior contracts for the protection of assemblies. Certain limitations on assembly are in place across countries related to age, legal status of an individual, and the location of the assembly. In Azerbaijan and Belarus, the specific laws that regulate freedom of peaceful assembly are vague and lead to uncertainty in interpretation. In some countries of the region, the law has special provisions on spontaneous (Armenia, Moldova, and Azerbaijan) and simultaneous assemblies (Moldova).

During the **state of emergency in the context of the Covid-19 pandemic**, assemblies were prohibited in Armenia and Moldova, but this restriction was subsequently lifted. In Armenia, the state prohibited assemblies for the duration of the martial law during and for almost a month after the end of the Nagorno-Karabakh War. In Moldova, the restrictions imposed by the National Extraordinary Committee for Public Health included gradual limitations regarding places allowed for assemblies, the number of participants (up to 50 people), or even a complete ban on assemblies. However, none of these restrictions were based on evidence, or were necessary. Thus, in 2021, the Constitutional Court of Moldova ruled that the state of emergency imposed by Parliament on 30 March 2021 was unconstitutional and all the restrictions were lifted. Only one case was recorded in Moldova in 2021 when, in June, the mayor of Orhei refused a series of assemblies by misinterpreting the anti-pandemic restrictions. The National Anticorruption Centre sanctioned the mayor for the contravention and exceeding his legal competencies.

In Belarus, because of the serious crackdown on CSOs, all efforts to organise and participate in protests ended by the end of 2021. In Azerbaijan, the right to peaceful assembly is seriously limited in practice. In Armenia, Georgia, and Moldova, **in spite of the emergency restrictions banning or restricting their organisation, numerous protests and gatherings took place online and offline on various issues**. These assemblies were mostly enabled by the authorities and peaceful, yet cases of **arbitrary refusals and dispersals** of peaceful assemblies were also documented.

In Georgia, the authorities **systematically prohibited persons, groups of persons or CSOs** from participating in peaceful assemblies. The state uses repressive methods on peaceful protesters of the community and environmental activists who are against

the construction of the Namakhvani Hydroelectric Powerplant. Also, LGBTQIA+ individuals and activists cannot equally enjoy the right to freedom of assembly. LGBTQIA+ activists were forced to cancel Tbilisi Pride Week 2021, following direct threats from radical religious and political organisations and violent break-ins of the offices of the 'Shame' movement and Tbilisi Pride that the state failed to address.

**In several countries in the region, the authorities detained and/or intimidated individuals for planning to organise, take part or not to participate in peaceful assemblies outdoors or indoors, online, in public and private spaces** or a combination of the above. In Ukraine, there were cases of police pressure on the activities of public activists, including illegal detentions. For example, in Kyiv on 19 August 2021, police detained two activists of the CSO 'Let's Protect Protasiv Yar' during a rally against the demolition of a 19th-century building. In Moldova, in September 2021, the police sanctioned the organiser of a hybrid assembly for posting protest banners reading 'Nina go to the trash' on a Facebook page. The organiser appealed the sanction, which is the subject of a court trial at the time of publishing of this report. In Georgia, the authorities fined organisers and participants for violating curfew or fined participants who left the designated protest area, but not those that stayed inside the protest space. In Belarus, in March 2021, militia in masks came to the founding conference of the League of Student Associations, held indoors in Minsk, and several participants of the event were detained.

In Belarus, almost all assemblies are illegal and those that are held are accompanied by arrests, dispersals, or sanctions. Citizens who have been charged for violation of the procedure for holding of assemblies within a year prior to an event, as well as those who have previous convictions for crimes against public safety, order, or morality or against the state or authorities, are banned from being organisers of assemblies. Severe repressions with long imprisonment terms were applied against those individuals who held peaceful assemblies without considering the legislative requirements and equally against those who asked for permission to hold an assembly.

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

In **most of the countries of the region, the right to hold a peaceful assembly** is not **subject to prior authorisation** by law, but to notification at most, except for in Azerbaijan and Belarus. The notification requirement in Armenia, Georgia, Moldova and Ukraine is clear, simple, and free of charge and requires reasonable advance notice. Exceptions exist for spontaneous assemblies. In Azerbaijan, organisers of peaceful assemblies are required to notify the authorities five working days in advance, which, in practice, is interpreted as de facto authorisation, and it is often denied. The violation of this rule may result in a criminal offence and up to two years

of imprisonment. In Belarus, the organisers must receive a special permit from the authorities to hold an assembly, demonstration, or procession and apply for it not later than 15 days prior to an event. The elements of the notification-based procedure for organisation of assemblies, introduced into law in 2018 (with advance notification required 10 days prior to an assembly, but in a limited number of places determined by the authorities), was removed from the law in 2021. However, prior to the submission of approval, the law requires the organiser to preliminarily sign a contract with the militia for policing (which is always refused).

Most of the countries of the region **facilitate and protect peaceful** assemblies. However, certain countries impose **restrictions** which are not proportional and are based on objective evidence of necessity, such as in the case of Belarus and Azerbaijan. Also, the **authorities have in some cases limited access to the internet and/or social media to restrict peaceful assemblies** online or offline. In Georgia, during the demonstrations in Gumati against the Namakhvani Hydroelectric Powerplant, the authorities installed devices for suppressing communication signals in the area, which complicated or even made it impossible to provide or obtain information. In Azerbaijan, during the Nagorno-Karabakh War, the state temporarily restricted internet through which assemblies were organised or coordinated.

The **final ruling on appeals of decisions limiting peaceful assemblies** in Belarus and Azerbaijan are usually not issued before the planned date of the assembly. In Azerbaijan, the decisions of state authorities regarding peaceful assemblies can be subject to further judicial review which is lengthy and with very low probability that the review will take place prior to the planned date. In Belarus, similarly, the court decisions are usually issued after the planned date of the assembly.

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

In most of the countries of the region, where **assembly can take place, the organisers are not held responsible for the maintenance** of public order or for the acts of others during an assembly. Also, the grounds for **interference from the authorities** are provided for in law and interference is allowed either to facilitate the peaceful assembly, or in cases where it turns violent.

In Belarus, the authorities impede the **distribution of information** about peaceful assemblies, by forbidding the journalists to work until authorisation is received. Assembly **organisers are responsible** for the maintenance of public order and for the acts of others during an assembly. This responsibility needs to be declared by organisers in a special written form submitted to the state authorities. In 2021, criminal liability for repeated violations (after two previous administrative offences) of the procedure for organising and holding mass events, as well as public calls for



organising or holding illegal assemblies, rallies, street marches, demonstrations, or picketing, or involving persons in participating in such mass events was introduced in the Criminal Code (the maximum liability being imprisonment for 3-5 years).

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

In some countries of the region, **there are regulations on the use of force by law enforcement during peaceful assemblies; however, they rarely clearly prescribe a human rights-based approach.** For example, in Belarus, the use of physical force and special means by militia officers (armaments, military, and special equipment) depends on the situation and that is within the discretion of internal affairs officers. Accountability mechanisms for excessive use of force or failure to protect participants in peaceful assemblies are lacking in most of the countries of the region. In Moldova, the excessive use of force or failure to protect participants in peaceful assemblies can be subject to disciplinary and penal sanctions.

In some countries, there are laws and regulations in place on the use of **surveillance devices** to police or monitor assemblies. For example, in Armenia, the Law on Police regulates the use of surveillance technologies to ensure proper notification on the use of such equipment and protection of personal information. In Moldova, state agencies use video monitoring of assemblies, but the regime for its use and storage is not clear.

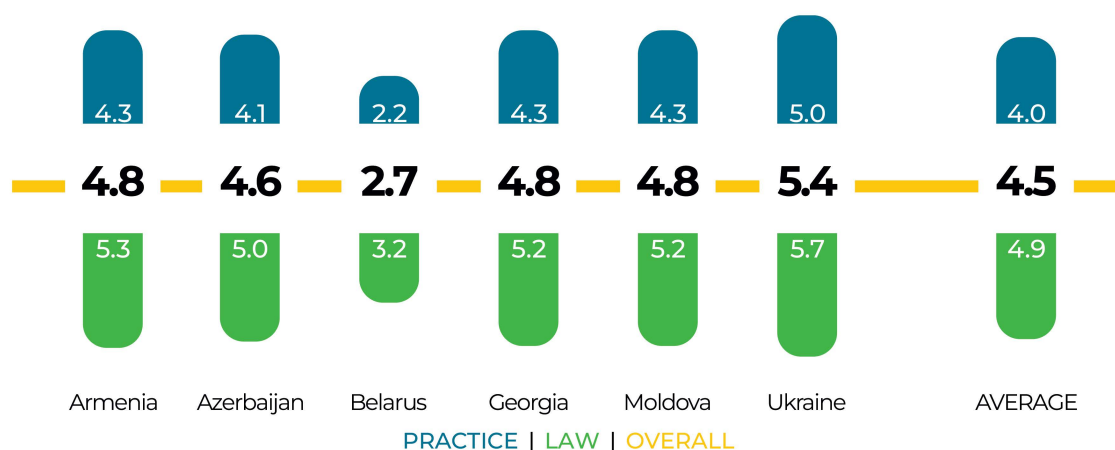
Law enforcement in **several cases failed to support peaceful** assemblies. The authorities in both Ukraine and Georgia failed to enable LGBTQIA+ individuals to hold an assembly. In Georgia, during the 5 July Pride event, the state ignored and ineffectively responded to violent and aggressive protestors. Similarly, in Ukraine, participants at marches for equality received threats, after which the police did not initiate criminal proceedings.

Law enforcement is **rarely held accountable** for the actions of its representatives. After incidents and violations of the right to peaceful assembly, authorities rarely conduct investigations or effective proceedings, or apply sanctions for representatives that violate the right to freedom of assembly through the inappropriate use of force, detentions, and dispersal. For instance, in December 2020 in Moldova, law enforcement applied excessive force and used tear gas against protesting farmers and, although the Covid-19 restrictions clearly targeted limiting the spread of aerosols, no one was held accountable. Other violations include failure to safeguard people while they are being attacked (e.g., in Georgia, LGBTQIA+ protests in which LGBTQIA+ people were assaulted, abused and injured) and inhumane treatment in detention (at least one CSO member who was imprisoned because of mass riots in Belarus died in prison). Also, in cases where there are proceedings against law enforcement, these are usually lengthy (e.g., Armenian proceedings initiated in 2015 and 2016 are still in

process and Georgian proceedings from cases in 2019 when over 200 people were injured and only four police officers were accused and not sentenced).

## 2.5 Right to Participation in Decision-Making

### Area 5. Right to Participation in Decision-making



The right to participation in decision-making is guaranteed by law in all countries of the region. Yet, in practice, there is still a lack of substantial public participation. This was exacerbated by the Covid-19 pandemic restrictions which resulted in closed channels for communication with governments and the need for urgent decision-making which usually failed to include CSO representatives. This resulted in a lack of opportunities for consultations, and further limitations on access to information. In addition, political crises and elections in some of the countries suspended most legal initiatives during the period. In general, in all countries, the already low level of participation further deteriorated with the closedness of the governments and the need for urgent decision-making.

Georgia and Moldova adopted slight improvements in the legislation that provides for participation in decision-making. In Georgia, procedural guarantees for CSO participation in developing and monitoring policy documents within the OGP framework were adopted. In Moldova, the Council of Europe Convention on Access to Official Documents that entered into force in December 2020 is expected to improve the situation in the field of access to public information.

Ukraine has the highest score in this area and some authorities were increasingly active in using online tools during the pandemic, which enabled diverse communities to take part in decision-making from different regions. Belarus saw a steep deterioration in ensuring participation in decision-making. The atmosphere of fear-mongering and mass repressions has led to self-censorship by CSOs and the minimization of any forms of interaction with the authorities. The situation deteriorated further after the liquidation of hundreds of CSOs.



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

In most of the countries of the region, except for Belarus, **there are legal provisions that ensure that public consultations are mandatory for legal and policy drafts** that affect the public or specific sectors and groups. In some countries, the constitution ensures mechanisms for direct and indirect participation of citizens (e.g., in Armenia through presenting petitions and legislative initiatives in decision-making). The Covid-19 pandemic further deteriorated the weak public participation and increased the number of laws and government decisions that were adopted without any public consultation, or any oversight. The participation of CSOs was reduced mainly to the possibility of written feedback and with certain opportunities for online meetings. However, the online format has proven to be usually non-effective. The political crisis and parliamentary elections practically suspended most of the legal initiatives throughout the reporting period.

The legal framework sets forth **several mechanisms in different legislative acts** for the public and CSOs to participate in the decision-making process, including via public councils, public hearings and discussions, working groups for draft legislation, and the provision of written comments on draft legislation. Other legal acts envision **more specific mechanisms**, such as referenda, citizen petitions (including online in Georgia), access to sessions in parliament, and the right to speak at committee sessions.

There were very **few cases of authorities using these various mechanisms to ensure** public participation in Armenia, Georgia, and Moldova. Mainly, these opportunities are related to parliament. In Armenia, CSO experts were substantially involved in advisory groups and collaborated with the parliamentary working group on electoral reforms. In Georgia, the Parliament has institutionalised more avenues for civil participation in decision-making including the adoption of the OGP Action Plan and other thematic inquiries from CSOs and experts (e.g., on municipal activities, women's rights, etc.). In Moldova, following the parliamentary elections in July 2021, the new parliament and government are more open to cooperation with CSOs than their predecessors. Parliaments in general across the region offer the possibility of contribution in decision-making processes at a later stage. There were, however, also cases of parliaments adopting important legal acts and decisions for the CSO environment without any input or public participation (e.g., the Civil Code and the Law on Mass Media in Armenia).

In Georgia, Ukraine, Azerbaijan and Armenia, **participation in decision-making at the local level** is provided for by law, ensuring guarantees of civic engagement such as: participation in the general assembly of a settlement; in the council of civil advisors; in the sessions of the city councils and the sessions of its commissions; and hearing reports on the work performed by the mayor of the municipality and by a

members of the council. Some council's sessions are open to the public and/or broadcasted online (e.g., in Armenia for communities with more than 3,000 residents).

In some countries of the region such as Armenia, Moldova and Ukraine there **are specific legal guaranties for an inclusive civil participation in decision-making** (these include, for example, on the duration of public consultations, the requirement to publish results, and the ability of the government to return a document which has not passed public consultation). Also in 2020, the government of Georgia adopted a **resolution on Approving the Methodology for Regulatory Impact Assessment** which establishes public consultations with different stakeholders as an obligatory stage of an impact assessment before introducing draft laws. However, there are gaps in law when it comes to **ensuring meaningful participation**.

In addition, in Armenia, Georgia and Moldova **some of the restrictions imposed** during the Covid-19 pandemic and during conflict are not in line with international standards. For example, in Armenia, amendments were adopted in April 2021 to ensure that the legal acts related to the state of emergency or martial law are not subject to mandatory public discussion. In Georgia, during the state of emergency, the government restricted conducting public hearings for the issuance of an environmental decision which is an obligatory administrative stage for such kinds of decisions. Environmental CSOs were concerned that this regulation restricted them from acquiring important information regarding the proceedings on several high-profile projects.

Most of the countries of the region do not **clearly prescribe mechanisms in law to redress and remedy for any noncompliance with the rules governing civil participation and transparency in decision-making**. In Armenia, however, the procedure for organising and conducting public consultations prescribes that individuals and organisations can apply to the decision-making body as well as to the MoJ to receive explanations in cases where violations in the process of public consultations are identified. Also, in Moldova, persons who violate legal transparency provisions can be subject to disciplinary and contravention sanctions.

Most of the countries of the region **do not provide clear criteria and equal opportunities for all CSOs** to participate in the decision-making process. **Critical CSOs are usually excluded from the consultations**. In Belarus, many CSOs do not have access to the consultative mechanisms due to political repressions and to formal restrictions. Despite this, CSOs can still submit written comments and proposals on the website 'Legal Forum', even though it only publishes draft laws in Russian.

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

The law **does not clearly set proceedings and timelines for public consultations** in Georgia, Belarus and Azerbaijan, leaving the organisation and procedures for public consultation to the discretion of state bodies. In Armenia, however, the process and timeline of consulting for government-initiated drafts are regulated and set out in law. **Information on drafts and timelines are available free of charge** in all countries of the region **and in some countries**, such as Armenia and Moldova, there is a single online platform for publishing and consulting draft laws. In Georgia, there is a platform on consultations at the municipal level and for when the draft act reaches parliament. Similarly, in Azerbaijan, draft laws are published on the website of the parliament and there is a technical feature that allows individuals to send suggestions/opinions on the proposed law.

Table 4. E-platforms for public participation

Country	Electronic platforms	Publishing and consulting features
Armenia	<a href="http://www.e-draft.am">www.e-draft.am</a>	Both
Azerbaijan	<a href="https://www.meclis.gov.az/index.php?lang=en">https://www.meclis.gov.az/index.php?lang=en</a> (Parliament website)	Only publishing features (with technical feature to send suggestions/opinions on the proposed law).
Belarus	<a href="https://forumpravo.by">https://forumpravo.by</a>	Both (however, not all draft legislation is published on this platform (particularly those that are controversial in terms of human rights. Also, public consultations are not obligatory for all draft laws.)
Georgia	1. <a href="https://idea.municipal.gov.ge/">https://idea.municipal.gov.ge/</a> (Municipal level) 2. <a href="https://parliament.ge/en/-for-draft-laws">https://parliament.ge/en/-for-draft-laws</a> (Parliament website)	1. Both 2. Only publishing
Moldova	<a href="http://www.particip.gov.md">http://www.particip.gov.md</a>	Both
Ukraine	1. Vzaemo.Diia platform 2. Web-portal of the Parliament of Ukraine	1. These features are provided in the platform, but not yet implemented. 2. Only publishing

**Even though there are specific platforms and rules on publishing draft laws and policies, these are not fully followed in practice** in any of the countries (for example, even though a draft law is published, it typically may lack information, or is incomplete, delayed and does not comply with the open data and accessibility principles). Also, CSOs are usually not duly notified on public hearings or discussions on draft regulations. In Georgia, since September 2020, the government has even

stopped publishing government ordinances on its web page without any official reasoning. In Ukraine, CSOs can access the necessary information, including texts of draft laws and policies; however, sometimes navigating the official websites is difficult and not all of the information, particularly that related to the date and time of public hearings, is published in a timely manner. In Azerbaijan, even though public agencies have discretionary power over what information they publish, a minor improvement was noted as they increasingly published information on their websites, including detailed annual reports. In Belarus, only certain draft acts are available for public discussions (those which are not controversial or able to be disputed). Draft laws are only published in their original form, without any subsequent updates.

**In all countries of the region, there are very few cases of effective participation and CSOs' input into the decision-making process** at the earliest stages and with sufficient time. In Armenia, the draft amendments to the Labour Code discussed recently by the Ministry of Labour and Social Affairs were a successful example, however. Even in a difficult context such as Azerbaijan, mechanisms exist whereby CSOs manage to have some impact, such as the National Anti-Corruption Commission and National Preventive Group under the Office of the Ombudsman. One reason for the lack of effectiveness is the **exercised discretion by policy-making bodies** to involve CSOs of their choice to join the public council or meetings. This has very much been the case in Belarus, where only likeminded people are invited, and expressing alternative points of view is persecuted.

Most of the countries of the region **do not regulate the establishment of consultative bodies**. The exceptions are Armenia and Azerbaijan that provide in law for participation in developing, implementing, and monitoring public policies through the establishment of consultative bodies. In Armenia, the ministries' charters include a provision on public councils to be established to ensure civil society participation in the implementation of the objectives and functions of the ministries, with a final decision on the composition of the council made by the minister. In practice, **there are numerous cases in which the existence of a consultative body limits other CSOs' ability to participate in the public consultation on certain issues**. This is due to certain bodies organising invitation-based discussions and the lack of transparency over those that are selected to participate. Further, when it comes to controversial topics, criticism by CSOs is met with hostility (for example, in Georgia in January 2021, the Adjara Cultural Heritage Protection Agency terminated the membership of a representative from the Advisory Board due to his critical views on their policy). CSOs outside of the capital cities find it difficult to meaningfully participate. In Belarus, in 2021, the government removed sections of the Code on Culture on the activities of public associations in the field of the protection of historical and cultural heritage monuments. Despite the CSOs' protests and petitions against these amendments, over 100 regional public councils for the protection of

culture will be liquidated. These councils had been effective in the engagement of CSOs and promoting the transparency of their work. Other public councils were also dissolved (for instance, the Council under the Department of Humanitarian Affairs and the National Council on Gender Policy).

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

Armenia and Moldova provide **guarantees on access to information** in their constitutions and, together with the rest of the countries, except for Belarus, have specific law(s) on access/freedom of information. These laws generally provide clear and simple procedures, restrictions, fees, and timelines for state bodies to publish all information related to the decision-making process. The times range from an immediate response (in Georgia), to 5, 10 and 15 days after receipt of the request (in Armenia and Ukraine, Georgia, and Moldova), up to 30 days (if it is a complicated request requiring large amounts of data with additional efforts (in Armenia and in Ukraine this is an exception for which delay is not specified or even receipt ensured). Armenia is the only country that has a Unified Platform of Electronic Inquiries ([www.e-request.am](http://www.e-request.am)) for submitting and tracking online applications, requests, or complaints to state authorities. Georgia is the only country which, according to the General Administrative Code of Georgia, stipulates the oversight mechanism and creates an obligation on public institutions to annually submit a 'Freedom of Information Report' to parliament (including the number of refusals, the number of violations and the imposition of disciplinary sanctions over responsible staff, as well as the number of appeals against the decision to refuse). CSOs also have an opportunity to engage and contribute to this oversight process through parliamentary proceedings.

During the state of emergency, access to public information was officially restricted in Georgia for two months after March 2020 and continued to be restricted in practice after the lifting of the restrictions. In April 2021 in Moldova, the time for responding to requests for public information was doubled. However, this provision was annulled after two weeks when the Constitutional Court declared the state of emergency unconstitutional.

**State authorities in all countries of the region rarely provide responses** to information requests in due time. They are usually delayed, and even when provided on time, the responses are incomplete or evasive (the Covid-19 pandemic was commonly used as pretext). There are also many cases of refusals and lack of response. In Georgia, CSOs face difficulty in effectively acquiring information on controversial projects or sensitive issues (construction projects, counterintelligence, etc.). The government often uses broad interpretation of commercial secrets as a pretext to



restrict access to information on infrastructure projects or public–private partnership deals which CSOs make efforts to monitor.

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

In **none of the countries of the region does the legal framework explicitly define the permitted political activities of CSOs**. There are certain provisions in different laws that provide limitations on the type of activities reserved for political parties in Armenia; participation in elections in Azerbaijan and Belarus; and providing financial and other material assistance to political parties in Azerbaijan. In Moldova, CSOs cannot provide free services to political parties and socio-political organisations, except for CSOs founded by political parties. CSOs are allowed to provide paid services to electoral competitors during the 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. There are further limitations in Azerbaijan set by the Law on Grants. The tax exemptions on income are lifted if grants are for pursuit of political power; lobbying laws and other normative acts; political advertising; or financing of politicians or political parties.

The **only country with a separate law on lobbying is Georgia**. The regulation of lobbying does not restrict CSOs' ability to engage in public policy and advocacy activities. The law regulates lobbying, establishes registration procedures for lobbyists, and consequent rights and obligations. Everyone has a right to register as a lobbyist, except when the person's occupation is incompatible with lobbying activities (persons who hold certain public positions; for instance, members of the parliament) or the person has been convicted of a crime against the state or an official standing crime. After registration, lobbyists have certain benefits and reporting obligations. For instance, they can freely enter the administrative buildings of the legislative and executive branches, may participate in discussions on a draft law on both open and closed sessions (except for in certain cases, as defined by the law), have the right to speak at committee sessions and meet in person with legislative and executive body representatives. In Ukraine, in early 2020, several draft laws were registered in the *Verkhovna Rada* (parliament) of Ukraine which aim to introduce legislative regulations on lobbying. However, their provisions equate advocacy and public consultation with lobbying and pose a threat to CSOs' work. On 3 March 2021, the Committee on Legal Policy of the Ukrainian Parliament considered the [four draft laws on lobbying from 2020](#) as unconstitutional and decided to propose that they are not included in the parliamentary agenda. Later, one of the draft laws was re-introduced.

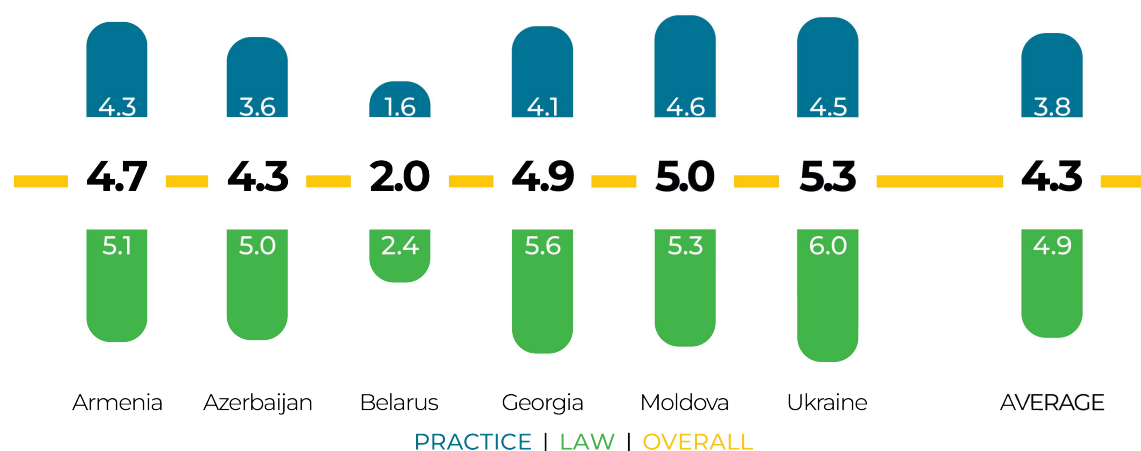
In practice, **there are cases when CSOs are harassed and experience pressure** for their views either supporting or having alternative views to the interests of political parties. In Armenia, there is a general problem of hate speech and stigmatisation based on the political views of individuals which is widespread in society. In Georgia, the ideological backgrounds and different political opinions of certain CSOs are sometimes used to marginalize their activities. These attacks are largely limited to political speeches, yet CSOs remain resilient towards these attempts and they are not silenced or intimidated to abandon their activities. In Azerbaijan, CSOs' public advocacy potential is limited by CSO funding restrictions for face-to-face advocacy events (such as round tables, meetings, and other public events). This is aggravated by the requirement to seek permission to hold events/conduct activities in the regions. In Belarus, CSOs that, in opinion of the state, relate to political opposition to the current authorities are restricted.

CSOs in all countries of the region are free to engage in advocacy **activities without the need to register as lobbyists or professional advocates**, or any additional administrative or financial burdens. In Georgia, in practice, the status of lobbying and registration remains inactive (only 35 persons are registered as lobbyists and only six applications were made since 2018) since Georgian legislation provides other guarantees for participation (in working groups, parliamentary hearings, access to information, etc.) that offer similar engagement without this status.



## 2.6 Freedom of Expression

### Area 6. Freedom of Expression



Freedom of Expression is one of the two areas with a major discrepancy between the average scores across countries in Law and Practice. The average score for Law is higher than the score for Practice. Ukraine is the leader in Freedom of Expression, and is closely followed by Georgia, Moldova, and then Armenia. In addition to Belarus, Azerbaijan also scores low in terms of Practice, even though its score in Law is comparable to the other countries in the region.

Freedom of expression is guaranteed in law in most of the countries, except for in Belarus. Everyone has the right to freedom of opinion and expression in law, and the state has the obligation to facilitate and protect the enjoyment of this right. The emergency, political and conflict crises in different countries led to limitations on different aspects of expression. Numerous negative legal developments (linked to tackling rising levels of hate speech, disinformation and fake news) also prevent individuals and organisations from exercising freedom of expression. Armenia also adopted legislative amendments to increase fines for libel and insult, largely considered as mainly aiming to protect officials. Other violations of this right include cases of physical and psychological harassment and threats on activists and journalists over social media, meaning that CSOs are careful when criticising the government (e.g., in Azerbaijan, defamation remains a criminal offence). Critical and vocal CSOs are usually targets of smear campaigns led by illiberal politicians.

Freedom of expression deteriorated further in Belarus through the adoption of tighter laws, the deprivation of foreign journalists of accreditation, arrests and criminal prosecution of editors and journalists. Further examples of attacks include the classification of media, including their editorial staff and subscribers to their Telegram channels, as extremist formations and the classification of hundreds of resources as extremist materials (even those from private correspondence now entail potential criminal liability).

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

In all countries, the **right to freedom of opinion and expression is constitutionally guaranteed and protected in legislation** for any person, local or foreign, individually or as a group, including CSOs, without discrimination. In law, **in most of the countries, except for Belarus, CSOs and associated individuals are free to seek, receive, and impart information and ideas** of all kinds through any media. In Belarus, according to Article 38 of the Law 'On Mass Media', it is forbidden to spread information, either in print media or online on behalf of organisations that do not have state registration.

In Armenia, the authorities put forward temporary restrictions during the martial law to restrict information related to military operations, or statements that are criticising, refuting, or questioning the effectiveness of the actions of the authorities. However, the Human Rights Defender of Armenia (the Ombudsman) challenged the constitutionality of these restrictions in the Constitutional Court. Before the court decision was made, the restrictions were lifted, even though martial law remained in force. In Georgia, two legislative proposals related to children's rights and political advertising were put forward that are broad, ambiguous, not clearly formulated, and contain risks of restricting freedom of expression.

In most of the **countries, the laws do not prescribe sanctions for the dissemination of information based on broad and vague definitions of 'false news' or 'non-state-verified' information.** However, since March 2020 in Azerbaijan, the owners of the internet information resource and its domain name or the user of the information-telecommunication network are obligated to remove what the authorities broadly define as 'false information', which can restrict expression on social media. The company has eight hours upon receipt of a notification from the authorities on prohibited information to remove content from the internet information resource. If this is not respected, the authority applies to the district court for restriction of access to the internet.

In practice, **there are cases of repercussions or disproportionate sanctions for expression of thoughts and opinions.** In Armenia, in 2021, the authorities brought criminal charges against a CSO leader working in protecting national minority rights (after being interviewed and mentioning the issues faced by the Yezidi minority in Armenia). There were many other **cases of the state hindering the possibility of individuals and organisations to express ideas, opinions and thoughts that are incompatible with or critical of the official policy and their work.** **Marginalized communities** such as LGBTIQIA+ are particularly vulnerable and cannot enjoy their freedom of expression. Other sensitive issues include the environment, the fight against corruption, women's rights, medical patients' needs, journalists' rights, veterans, and trade union activities. In Georgia, during the Tbilisi Pride Week 2021,

the organisers were forced to cancel the event as the state de facto refused to protect the safety of participants in the march. In Moldova, politicians often sue the authors of statements that scrutinize their activities and officials make verbal attacks and threats on social media which has a chilling effect on freedom of speech. In Ukraine, two activists were physically attacked as a 'warning' against their activities on urban corruption. Also, the persecution of LGBTQIA+ activists by far-right organisations has increased. Systematic persecution of Ukrainian activists is noted among the Crimean Tatar population in Crimea. In Belarus, individuals have generally not been able to engage in public discussions without fear of retribution, repression, and criminal persecution. The space for free political discussion is strictly limited and any alternative civil expression is under pressure both online and offline.

In practice, **the cases of sanctions imposed for hate speech show that they** were not always strictly necessary and proportionate. In Moldova, in June 2021, the Council of Europe published the Guide to Monitoring Hate Speech in the Audio-visual Media,<sup>12</sup> but the Moldovan Audio-visual Council has not approved it. In Belarus, hate speech against specific groups, such as political opposition, LGBTQIA+, human rights activists, CSOs or protesters is widespread in state media and among state-supported bloggers who justify the increasing level of arrests and tortures. In Belarus, the authorities misuse the legislation against radicalism, extremism and hate speech to restrict freedom of expression, including providing for a ban on publications. Direct violence from state agencies against journalists and bloggers has been reported in Belarus throughout 2021 (more than 30 journalists are currently imprisoned).

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

In most of the countries of the region there **are no limitation on the free use of the internet or other communication means for expression of opinions, as well as certain protections against censorship, except for in Belarus and Azerbaijan.** In Georgia, the Constitution declares access to the internet as a fundamental right of Georgian citizens. On the other hand, in Belarus, the law provides a wide range of grounds for restrictions on the giving of opinions through criminal prosecution, restrictions on the media, and control over the internet and dissemination of materials. Terminology used in the legislation is often vague and allows divergent interpretations. In Azerbaijan, the law provides a basis for blocking online resources and the Ministry of Digital Development and Transport has issued a warning to the site administration to delete offensive material within eight hours or the site will be blocked. In law, **several countries in the region provide certain protections of the confidentiality of whistle-blowers' and journalists' sources of information.** In

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<sup>12</sup> Council of Europe, Guide to Monitoring Hate Speech in the Audiovisual Media, <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>.

Armenia, both are protected, and exceptions are listed when sources are required to be disclosed (such as a court decision for investigation of a serious crime).

In several countries, including Azerbaijan, Belarus and Armenia, **the sanctions are not clear and proportionate when it comes to defamation/libel, and they are criminalised**. Since July 2021, Armenia has criminalised swearing and the sanctions for this are a fine range from 170-860 EUR, with further fines and up to two months' detention in case of aggravating circumstances. Also, in 2020, public calls to and justification or propaganda of violence was criminalised, with sanctions of up to three-year imprisonment in cases where the misconduct was committed by a group of persons with prior agreement with or by an official. In Azerbaijan, the Criminal Code sets forth criminal responsibility for the dissemination of information (including online and on social media) that damages the honour and dignity of a person. In Belarus, criminal liability for insult or defamation of officials or the president remains and is applied in practice in many cases, while general criminal liability for insult (Article 189 of the Criminal Code) was removed in 2021. On 31 December 2021, amendments to the Criminal Code came into force, in particular an amendment to Article 361 criminalising calling for any restrictive measures (sanctions) against Belarus. In Moldova, deliberate dissemination of defamatory and deceitful information (defamation) is an administrative offence. State officials and politicians often claim sanctions and initiate civil court cases to defend their 'honour and reputation' against journalists known as strategic lawsuits against public participation (SLAPPs) to discourage freedom of expression. In October 2021, the ECtHR found<sup>13</sup> a violation of freedom of expression in a case that had submitted an investigative journalism CSO to lawsuits that lasted for five years. In 2020, CSO and media experts developed a draft amending the laws on freedom of expression.

In practice, **there are numerous cases in Azerbaijan and Belarus of blocking of conventional and online media which** are not based on clear legal grounds nor proportionate for the achievement of legitimate aims. In Belarus, the media market is monopolised by the state. All media must be registered with the Ministry of Information and the work of foreign media and journalists is subject to registration or accreditation which the authorities often refuse to media critical of the authorities. In Armenia, since August 2021, unlawful restrictions on journalists' movements in the parliament building and the removal of journalists during incidents were reported. In Georgia, police brutality towards journalists was recorded during rallies, including at a Pride rally after which a cameraman died. There has been no effective investigation of the tragedy. In Moldova, in September 2021, one of the TV channels regarded as impartial was the target of a denigration campaign which reduced its credibility and,

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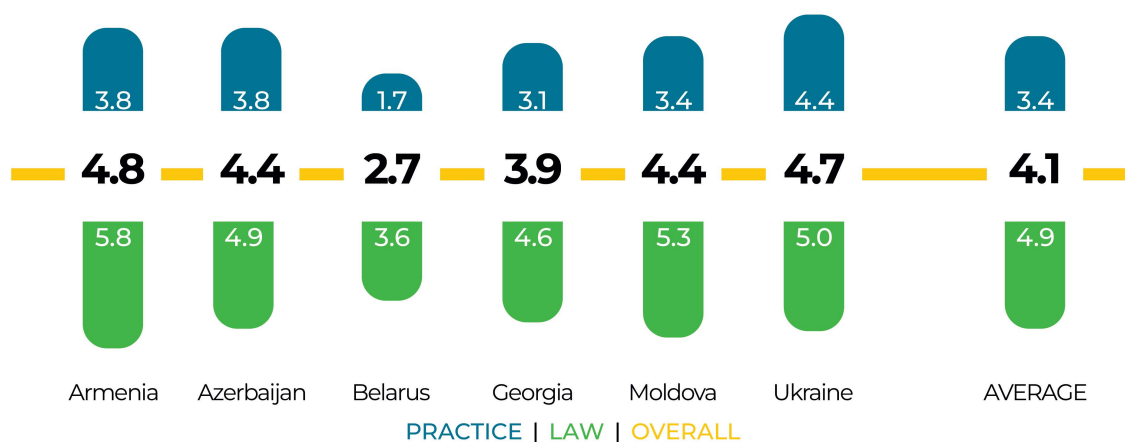
<sup>13</sup> Case of Association of Investigative Reporters and Editorial Security of Moldova and Sanduța v. the Republic of Moldova, <https://www.rise.md/rise-moldova-vs-dodon-cedo-pune-un-stegulet-rosu-asupra-justitiei-din-moldova/>

once again, called the condition of free media into question. In Belarus during 2021, the legislation on limiting the media became extremely widely used. New repressive and restrictive acts were adopted and media outlets and journalists were silenced via criminal prosecution, the blocking of websites and by their work being recognised as 'extremist materials' (by the courts) or as 'extremist formations' (by the KGB or the Ministry of Interior without trial).

In Belarus, several dozen journalists, bloggers, and media workers were arrested, searched, and prosecuted in 2021. As the Belarusian Association of Journalists reported, top-level repressions took place in July 2021, when the militia and KGB officers conducted 75 searches across the country in journalists' houses and at the editorial premises of independent media outlets, under the pretext of investigating criminal cases (under Article 289: 'an act of terrorism'). Many media outlets in Belarus were punished with significant fines (along with many people, with fines or arrests of up to 15 days) for possession and distribution of materials recognised as extremist on their personal smartphones and social networks (for example, for reposting publications on social networks of pictures with logos of the most popular websites recognised as 'extremist'). The Index of Extremist Materials is more than 200 pages long and includes thousands of banned books, websites, pages in social networks, CSO logos, well-known media logos (such as the American-founded Radio Liberty) and other publications.

## 2.7 Right to Privacy

### Area 7. Right to Privacy



Right to Privacy is the area with the largest discrepancy between Law and Practice. Armenia is the leader in the overall score on Right to Privacy, even though the discrepancy between Law and Practice for Armenia is the largest. Namely, the score for Law is relatively high (5.8), while the score for Practice is 3.8, lower than for Ukraine. Georgia, Moldova and Ukraine have their worst Practice scores in this area.

Right to privacy is guaranteed in law in all countries of the region. However, these guarantees are a long way from being implemented in practice. Namely, several countries, including Armenia, Georgia, Moldova and Ukraine saw an increase in surveillance practices by the government and the leaking of CSOs' private information and the personal information of associated individuals. There is lack of clarification of the reasons behind the use of technology such as surveillance or wiretapping, or ensuring any effective investigation, or accountability against such developments. The country with the lowest scores is Belarus where the protection of personal data in practice has deteriorated despite the adoption of the Law on Personal Data Protection, which contains positive norms in line with EU standards. In practice, CSOs are unable to meet the legal requirements for data processing and are subject to criminal liability for failure to do so. Individuals remain defenceless against intrusion into their personal lives by militia or state propagandists. For instance, forced outings of LGBTQIA+ people are practiced under the threat of torture. Refusals to provide access to private correspondence or a smartphone are interpreted as disobeying militia and in practice are often punished with arrests.

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

All countries of the region **provide the right to privacy without discrimination** both constitutionally and in legislation. In some countries, the law provides guarantees against interference or attacks on privacy (defined in numerous ways) by setting liability and both administrative and criminal sanctions, ranging from money fines in Armenia and Azerbaijan, to imprisonment of up to two years in Azerbaijan and



Belarus. There is criminal liability for failure to follow the rules in some of the countries; however, those laws would benefit from further improvement and alignment with international standards. In all countries there is **a specific law that regulates the collection, processing, and storage of private persons' personal data** by government authorities. Some countries have established either independent institutions, or bodies as part of government institutions, to protect personal data (e.g., in Armenia, the Personal Data Protection Agency under the MoJ; in Georgia, the independent state authority the State Inspector's Service; in Moldova, the National Centre for Personal Data Protection; and in Ukraine, the National Commission for the Protection of Personal Data and Access to Public Information).

During 2021, in Georgia and Ukraine there were unfavourable legal developments. In Georgia, amendments to the Law on Information Security was adopted despite heavy criticism from CSOs. The amendments granted the State Security Service sweeping powers to access information without the necessary oversight mechanisms which created a threat of illegal and disproportionate processing of personal data. Similarly, in Ukraine, a draft law was registered in 2020, but not adopted, that proposes to expand the powers of the Security Service of Ukraine and to oblige the telecommunications operators to install special equipment that will provide full permanent access to user data in real time and allow the blocking of certain resources on the internet.

**Across the region there is a lack of effective investigation and prosecution of violations of the right to privacy by state authorities.** Law enforcement of privacy guarantees is ineffective, with insufficient skills in legislating, and handling personal data. The accountability system and the oversight and remedy mechanisms are weak. Institutions such as the Constitutional Court of Georgia are significantly delaying the delivery of decisions, such as one related to a class action by 326 citizens on unchecked state powers during surveillance. In addition, CSOs and associated individuals are insufficiently protected from illegitimate or disproportionate collection, processing, and storage of personal information, online and offline.

Both in Armenia and Georgia, personal data was leaked to the public in 2020-2021. In Armenia, there were reported leaks of citizens' personal data (medical data, passport data and other information) allegedly carried out by Azerbaijani hackers. There was subsequently no information on the investigation of these cases or explanations provided for how it took place and who was responsible. In Georgia, a huge stream of information was leaked through the media and internet resources, indicating the alleged covert surveillance of citizens by the State Security Service, including the transcripts of phone conversations of CSO representatives, journalists, diplomats, clergy, and other personal private conversations. The CSO representatives whose conversations were leaked officially applied to the Prosecutor's Office requesting an



investigation into alleged illegal activities by the State Security Service. The Prosecutor's Office has initiated an investigation; still, CSO representatives and journalists have not been granted the status of 'victim' in line with the Criminal Procedure Code, and this deprives them from accessing case files and information about the ongoing investigation.

In Belarus, the authorities conducted gruesome cases of violation of privacy of CSOs, activists and associated individuals. These range from both physical and mental torture and harassment, to other type of threats. For example, torture was applied to obtain a password for a smartphone or a chat group, followed by examination of the smartphones during arrests and detentions; seizure of all data storage and communication devices, including during searches at private homes. Authorities, after arresting protest coordinators, published information in state media and created a database of participants in unauthorised demonstrations (known as the *BESporiadki* database). In many cases, state agencies use the data obtained for criminal prosecution and smear campaigns in the state media and stigmatisation of human rights defenders, activists of other CSOs, trade unions, journalists, and other individuals unsatisfied with the authorities' policies. Forced outings of LGBTQIA+ people in custody is practiced by the Ministry of Internal Affairs.

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

In most of the countries of the region, except for Belarus and Azerbaijan, the **reporting requirements for CSOs protect the privacy of members, donors, board members and employees and the confidentiality of their personal assets.** In Belarus, the laws are disproportionate and not justified by legitimate interests, and CSOs are not protected. Personal information, including a list of all founders, is required. CSOs need to publish large reports about their activities, income, and expenses, and some CSOs were liquidated due to technical drawbacks while publishing these reports. In Azerbaijan, CSOs are also obliged to provide the Ministry of Finance with passport information of individual donors during the year. CSOs must also inform the MoJ of new members of the board, including the chairperson (but without the obligation to provide personal information).

In most of the countries' legislation, **except for Belarus, the access to CSOs' offices by the authorities is possible only when it is based on objective grounds and appropriate judicial authorisation.** In Georgia, in December 2020, the Constitutional Court made a ruling and published a decision that even if law enforcement officers seize an illegal item, this fact alone should not be grounds for legalising a search conducted without a court order.

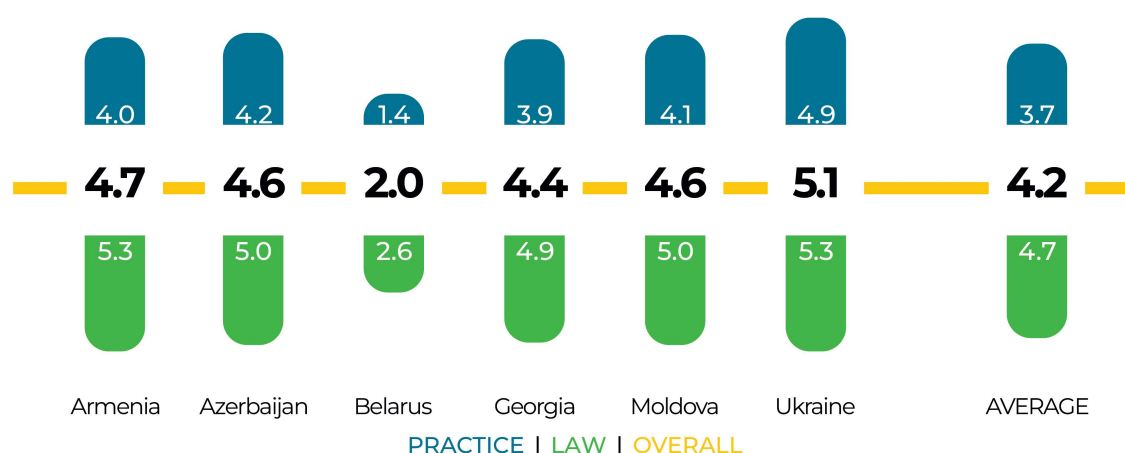
There are numerous cases of alleged unauthorised interference with the privacy or communications of CSOs or associated individuals. In Belarus, personal information

was published on the website of the Department of Justice about members of the CSOs' governing boards who submitted AML/CTF reports to one of the regional justice departments. In Georgia and Moldova, CSOs, activists and other associated individuals faced surveillance and wiretapping of their communications. In Georgia, the State Inspector's Service, responsible for monitoring the lawfulness of covert investigative actions, confirmed that the surveillance of the CSO representatives was not officially authorised and therefore was illegal. Similarly, in Moldova, the Prosecutor's Office confirmed illegal collection of information about the private life of over 50 persons in the so-called case of illegal surveillance and interception of opposition representatives, civic activists, and journalists, using special technical means of investigation for secretly obtaining information, as well as violation of the right to secrecy of telephone conversations. In Armenia, CSOs also question the legitimate use of surveillance powers by the responsible institutions as there are no oversight and accountability mechanisms, nor transparent investigations of incidents of data leakage. Finally, in Ukraine, on a smaller scale, four prominent cases of violation of privacy were recorded in 2020 (the publication of personal data of human rights defenders in Telegram channels, while LGBTQIA+ activists, anti-corruption activists and researchers suffer from violence from far-right groups).

In Belarus, there **were numerous cases of breaking into CSOs' offices or accessing CSO documents without due judicial authorisation**. The authorities arbitrarily accessed CSOs' offices and the private homes of their representatives for arrests, searches, and the seizure of equipment. In the numerous inspections that took place during 2021, the authorities collected personal information to justify the lawsuits for the liquidation of hundreds of CSOs. An appeal of these requests to the Supreme Court following the issuing of the warnings to the relevant CSOs was unsuccessful.

## 2.8 State Duty to Protect

### Area 8. State Duty to Protect



State duty to Protect is one of the top three areas across all countries which in average has a major discrepancy between the scores in Law and Practice, the Law being the higher score. Ukraine has the highest overall score and is closely followed by the rest of the countries, except for Belarus which has the lowest score. For Belarus, this is the third worst-scored area.

All countries of the region provide certain legal mechanisms for the protection of CSOs and individuals associated with CSOs from interference and attacks. There has been a positive development in Armenia where CSOs can present public interests at court to protect the rights of people with disabilities, in addition to environmental rights. As a response to the Covid-19 pandemic, the governments in most of the countries introduced and changed emergency measures in a quick and unpredictable manner, without these always being necessary or justifiable. In practice, these measures failed to provide a human rights-based approach and certain parts of the population had their civic space further narrowed.

In practice, several countries failed to protect CSOs and individuals associated with them, and in some the authorities tirelessly violated their rights with the aim of silencing civil society. In Belarus, CSOs' work was further suppressed through involuntary dissolutions, defamation attacks, the intrusion of state bodies into the internal affairs of CSOs and the private lives of people. In the rest of the countries, many CSO activists, predominantly the representatives of LGBTQIA+ organisations, anti-corruption activists and journalists, were continuously attacked and repressed. In Armenia, CSOs associated with Open Society Foundations, as well as larger groups of human rights/good governance CSOs and persons who advocate against human rights violations are attacked and stigmatised under the label of sorosakan, meaning persons who serve an 'anti-Armenian' agenda and contribute to the 'destruction' of the state. In Ukraine, there are cases of activists being attacked and subject to threats, harassment, and damage to property without any protection from the authorities.

Measures used to fight extremism, terrorism, money laundering or corruption are adopted in all countries, except for in Ukraine, which include the requirement to declare the CSO's UBO in the state register with high sanctions for failing to do so. These measures are not targeted and proportionate or in line with the risk-based

approach. CSOs are not informed in a timely manner on the measures, and do not have sufficient time and capacity to comply with them. Also, in Belarus, the authorities have gravely abused these measures to silence and destroy CSOs and critics of the government. These laws are one of the most important prosecution mechanisms (liquidation, blocking bank accounts) both against CSOs and regular citizens that are critical towards the authorities.

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

In most of the countries the laws provide protection of the rights of CSOs and associated individuals. Most broadly, the country's constitution imposes the state duty to protect its citizens. The right is further specified in different laws in different countries with both positive and negative obligations for the state.

CSOs and associated individuals in most of the countries of the region have **access to a complaint and appeal mechanism** before independent and impartial bodies (such as administrative bodies, courts, and Appeal Councils in Azerbaijan acting on a public basis to review complaints) to challenge or seek review of decisions affecting the exercise of their rights or the public interest. In Armenia, public organisations can present public interest cases in the courts on matters of environmental protection, and, since 2021, also concerning people with disabilities. However, the procedure for this is quite burdensome. In Moldova, CSOs can also represent beneficiaries in court whose rights have been violated and conduct strategic litigation. However, the procedures are usually inefficient, complicated and lengthy. In all countries, CSOs are faced with burdensome documents and rules that further discourage using these avenues for the protection of rights.

Most of the countries in the region introduced and periodically revised and/or unexpectedly **changed crisis** measures (both related to the Covid-19 pandemic and martial law in Armenia, or related to the Nagorno-Karabakh War between Azerbaijan and Armenia). Most of the measures were limited in duration and CSOs and activists questioned their lawfulness, necessity, and proportionality. Oversight over their adoption and implementation was also not provided, and the responsible bodies for decision-making did not include any human rights/CSO experts. The restrictions affected civic freedoms; specifically freedom of assembly, the right to access information, freedom of expression and the right to public participation. For example, in Azerbaijan, the state introduced several limitations concerning CSOs' work (a curfew, travel bans and a ban on having all staff on site, etc). In Georgia, the state lifted the restrictions by September 2021. The obligation for participants of gatherings and in-person meetings/conferences to provide negative Covid-19 test results remained in place, however. In certain cases, the quick and sudden changes in measures brought

uncertainty for the CSO environment. In practice, the measures were used to limit freedom of assembly by direct bans on protests (Moldova), or by applying long-term curfews (Georgia), limiting access to justice (in Belarus), or limitations on in-person meetings for CSOs (Ukraine).

All countries of the region **failed to effectively protect CSOs and associated individuals** when **third parties** violate their rights. CSOs working on certain issues (such as LGBTQIA+ rights, women's rights/domestic violence and human rights) or funded from foreign donors (such as Open Society Foundations) were more subject to harassment, hate speech, and physical and verbal attacks by third-party organisations and groups both online and offline (e.g., attacks on Open Society Foundations' office during protests in Armenia and Pride Week in Georgia resulting in the death of one journalist, 55 people injured and the offices of the organisers were attacked). Such violations are rarely effectively investigated and brought to court and/or sanctioned. For example, in Armenia, two defamation cases initiated in the court by a leader of a women's right organisation have been continuing for several years. In Moldova, for example, in a court case concerning illegal surveillance and interception of opposition representatives, civic activists and journalists, the case is going towards a verdict to sanction the executors of the wiretapping itself, and not the high-ranking decision makers that ordered the surveillance. Certain institutions have tried to advocate for the elimination of such negative practices against CSOs (e.g., the Human Rights Defender (Ombudsman) in Armenia issued a statement calling for a stop to hate speech and insults against CSOs and the Ombudsman in Georgia concerning freedom of peaceful assembly). In Belarus, killings, torture, and unlawful arrests for participation in protests, and other activities deemed undesirable by the authorities, remain unpunished and can even backfire for the complainants. The use of hate speech and incitements to violence, including the justification of torture, are widely broadcasted by state media against opposition and activists. Under the pretext of the Covid-19 pandemic, many administrative and criminal cases are heard behind closed doors, or are 'resolved' briefly online via Skype with unfavourable judgements. Also, many lawyers are facing numerous difficulties in their work, including an inability to meet with their clients.

State officials in some of the countries **use hate speech and stigmatise CSOs** and lead smear campaigns in the state-supported media against CSOs or associated individuals. In Belarus, politicians and government officials extensively engage in hate speech towards human rights CSOs, opposition groups, independent trade unions and CSOs receiving foreign funding. This later leads to serious consequences for the people in question. In Moldova, an MP launched a book that attacked foreign-funded CSOs (that work on issues such as human rights, anticorruption and justice reforms).

**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.**

Laws to combat extremism, terrorism, money laundering and corruption include provisions which restrict, burden and, in certain countries, prevent CSOs from undertaking legitimate activities or enjoying fundamental freedoms. In all countries except for Ukraine a specific law on anti-money laundering and terrorist financing exists. These laws provide rules for conducting due diligence and risk management procedures when identifying risks. Most of the countries of the region have established specific institutions or assigned responsible institutions. In 2021, the authorities made amendments to laws in Armenia, and adopted new bylaws and bank practices in Belarus to include the requirement to register the UBO for all legal persons. This was already a requirement in Moldova and Ukraine. The same law in Azerbaijan puts forward burdensome requirements for CSOs to prepare an internal control system against money laundering and other tasks (assigning a responsible officer and an internal auditor) and provides high penalties for non-compliance. In Belarus, the abuse of anti-terrorism and anti-extremism legislation (especially its amended and expanded version in 2021) is not an unintended consequence, but a deliberate policy of the current government. In general, legislation on 'countering extremism' in 2021 became very similar to the Russian model; namely, very broad and vague in its definition, with serious consequences and sanctions for those recognised as extremist organisations and formations.

Legal measures aimed to fight money laundering and terrorism financing do not always apply only to CSOs found at risk. For example, in Belarus, AML/CTF measures apply to all CSOs of two legal forms (public associations and foundations), regardless of the level of risk posed. These measures are not in line with the risk-based approach of the Financial Action Task Force (FATF) and are not based on the official risk assessment. Furthermore, according to a new law in 2021, Belarusian public associations and foundations are required to publish large reports about their activities, income, and expenses.

CSO activities in some states are limited based on unjustified claims of connections with extremism, terrorism, money laundering and corruption. In Belarus, violation of the rules on publishing AML/CTF reports in terms of the procedure, rather than actual violation of AML/CTF laws, were used as grounds for liquidation of around ten leading CSOs.

In several countries, different assessments took place which are concerning for CSOs. For example, in Georgia, the FATF assessment and report found that the country fails to comply with Recommendation 8 on CSOs. In Georgia, it also found a *'serious gap with respect to core requirements on applying a risk-based approach, conducting sustained outreach and applying risk-based monitoring of CSOs.'* In Moldova, in 2020, the Security and

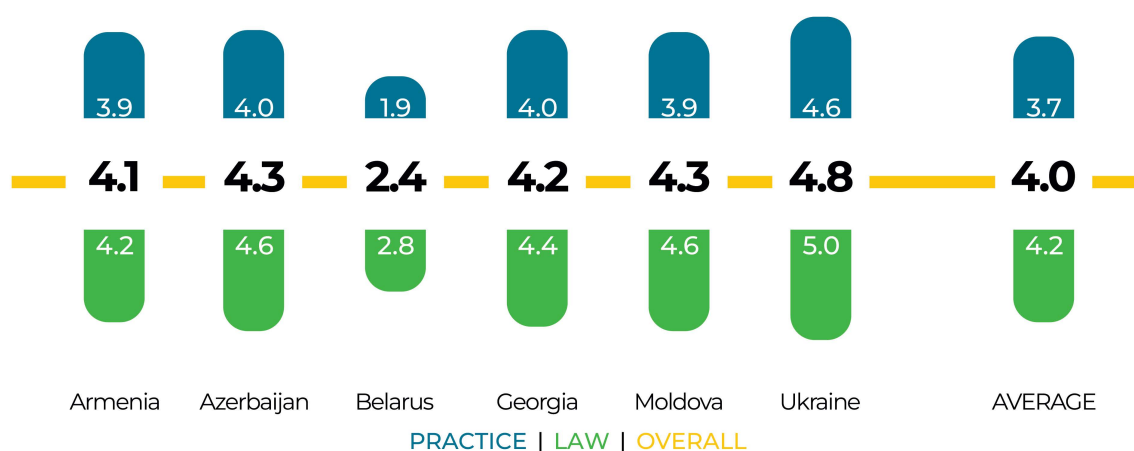


Information Service carried out an assessment of the non-profit sector to identify the categories of organisations vulnerable to being used for terrorist financing. The assessment was conducted in secrecy, without CSO participation, and the conclusions were not made public.

There are cases when state authorities and bank practices disrupt or discourage CSOs' ability to send or receive money. Oftentimes, certain banks request excessive documentation to open an account and receive funds, such as asking for copies of the founders' passports, the grant project contract or other documentation (Armenia, Moldova), or foreign companies/organisations are required to provide detailed information about their establishment and UBOs (Georgia). In Ukraine, banks froze the accounts of some CSOs and required them to provide additional information as they were considered 'high risk'.

## 2.9 State Support

### Area 9. State Support



State Support is one of the two areas with the lowest overall scores. It is also the area with the lowest score in terms of Law which means that more efforts are needed to reform both state funding and the existing tax incentives for CSOs and their donors. Ukraine is the leader in the overall score and is followed by Azerbaijan, Georgia and Moldova. Armenia has a slightly lower score, while Belarus scores lowest.

The different types of state support remain underdeveloped in all the countries of the region. First, state funding for CSOs is insufficient to substantially support the sustainability of CSOs, even though all countries apart from Belarus developed certain regulations and procedures for its allocation. Also, state funding is provided on a discretionary basis and state institutions fail to provide transparency and accountability in the allocation process. Second, tax benefits for CSOs and donors

are very limited, with complicated and burdensome procedures for claiming them. Third, volunteerism was widely practiced and flourished during the Covid-19 pandemic. However, several countries have legislative gaps with unclear definitions of volunteerism and a lack of incentives for it.

Armenia and Ukraine improved the CSO-state funding allocation procedure. In Armenia, amendments were adopted to regulate the procedure of state funding related to ensuring transparent and competitive processes of grant project selection. The government started using the e-procurement platform for collecting grant applications and publishing grant contracts. In Ukraine, the government launched the platform Vzaemo.Diia for online contests for CSOs for some issues. Moldova also saw several positive developments, such as an increase to CSOs' revenues from the percentage designation mechanism to 53 per cent. Also, lawyers, notaries, bailiffs and mediators were granted the possibility to make percentage designations. A new regulation was adopted that allows the subsidisation of taxes for social enterprises that employ people with disabilities.

Some governments adopted temporary changes to financially support the private sector during the Covid-19 pandemic. These changes were both in relation to state funding and the tax environment. However, these measures mainly excluded CSOs. In others they provided only minor support for CSOs. For example, in Ukraine the restriction for legal entities and individuals at a maximum of 4 per cent of income to provide for charitable assistance was temporarily lifted (for the period of the Covid-19 pandemic restrictions).

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

**In all countries of the region, different laws provide for the establishment of diverse state funding mechanisms** by various state bodies at both the national and local levels. Each country provides different levels of available information concerning the different types of funding mechanisms that exist. In general, the following mechanisms can be identified in most of the EaP countries: state funding through competition via different state bodies and/or agencies that allocate funds; direct state funding without competition and direct subsidies; and local-level funding, including grants, vouchers, programme financing, social service provision, and competition in public procurement and in-kind support (free office space or reduced rent; transportation, use of venues, assistance in reaching out to communities). Only Moldova has an additional mechanism, called percentage designation mechanism. The amounts vary depending on the type of mechanism and country. For example, Ukraine awarded approximately 5.9 million EUR in 2021, mainly through grants to different CSOs. In Georgia in 2020, around 1.6 million EUR was distributed through grant competitions alone and around 738,527 EUR in the first half of 2021. In Moldova, according to their annual reports, CSOs received over 3 million EUR from the state budget as a source of funding (the latest data available is from 2019). Still, the countries have underdeveloped systems of state support, in which the wider spectrum of CSOs cannot compete openly. Therefore, international donors remain the main

source of income for CSOs. Even when countries report positive experiences, for example in Armenia, competitions are organised as a ‘one-off’ and are not institutionalised.

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

In law, the **state financial and in-kind support in most countries, is not provided based on clear principles of transparency, accountability, and with equal access to resources**. Armenia and Ukraine improved the legal procedure for the allocation of state support for CSOs. In Armenia, the procedure provides details for the grant announcement process and organisation of activities of the grant selection committee (conflict-of-interest issues, transparency of the selection process, and setting the selection criteria, carrying out competitions, contracting and reporting through the Electronic Public Procurement System (armeps.am) launched in September 2021 and used for publishing information about grant budgets and grant contracts). At the end of 2020, the Ministry of Digital Transformation of Ukraine launched the online platform *Vzaemo.Diiia*, with one feature for CSOs to participate in online competitions for project funding (available to public associations relating to veterans, people with disabilities, national-patriotic and youth CSOs). Uniform regulations for participants and documents for participation in contests from various authorities have been developed, along with the transparency of the reporting procedure and distribution of funds. There is also a possibility for citizens to join the tender commission and vote for winners. In Georgia and Moldova, CSOs, together with state institutions, worked on unified rules for the procedures of state funding for CSOs (and in Georgia for enabling local self-government bodies to issue grants). However, there was no progress in the reporting period.

State support for CSOs **in most of the countries is not allocated through a transparent and competitive procedure**. CSOs face several challenges that are considered unsupportive, including the **low level of available information** for different stages of the process of state funding (e.g., disseminating information on grant opportunities, existing platforms are not user-friendly for CSOs, lack of open data format, lack of information on awarded CSOs, or any published reports on spending); **complicated bureaucratic procedures** both in terms of application documentation, but also in the implementation process; and **lack of clear assessment and feedback** to applicants, as well as **lack of appeal** mechanisms.

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

In all the countries of the region, the law **provides various tax benefits for CSOs**. Mainly, these are profit tax, VAT, and personal income tax exemptions. Azerbaijan and Belarus have unfavourable tax environments beyond certain provisions for

exemptions. In Azerbaijan, CSOs are subject to 20 per cent profit tax, VAT tax, income tax (14 per cent) and other property and land taxes. Yet, when grants are duly registered, or when revenues are from sources such as gratuitous transfers, membership fees, and donations, they are exempt from profit tax. There is also a VAT refund for physical persons only (including foreigners and stateless persons) with a bank account of 10 per cent for cash payments and 15 per cent for card payments, for goods purchased from retail trade and catering (excluding oil and gas products). CSOs' employees are allowed to use this revenue to cover the CSO's expenses such as electricity, mobile phone expenses, stationery, etc. Finally, in Azerbaijan, CSO staff salaries of up to 4,200 EUR are free of income tax within 7 years if the CSO does not receive any government funding. In Belarus, besides the need to register the funding received, the recipient should undergo a separate procedure for tax exemption which may be partially or fully refused. CSOs are exempted from income tax when receiving membership fees and donations and any sum received by an individual as a gift, so long as it does not exceed 2,300 EUR.

VAT exemptions with certain limitations are provided in most countries. In Armenia, CSOs are not obliged to charge VAT on their goods and services when their annual turnover from all types of activities does not exceed 226,400 EUR. In Georgia, there are VAT refunds for projects under grants or VAT exemptions for projects carried out under grant agreements with donors listed on the Revenue Services website as 'Beneficiaries of tax exemptions'. In Ukraine, VAT exemption is available on the import of humanitarian aid, the free supply of goods and services to charities and the provision of charitable assistance.

In Georgia, a temporary exemption was introduced during the Covid-19 pandemic and ended in May 2021 (if the CSO staff salary was equal to or less than 430 EUR, the CSO could keep income tax from this salary (max. amount 45 EUR) and use it for its own purposes).

The challenges in the implementation of the variety of tax benefit procedures vary across the countries. Some of them are **considered burdensome and lengthy**, with heavy bureaucratic paperwork and communication with the tax authorities. On the other hand, there are countries such as Ukraine and Moldova with well-implemented procedures and CSOs enjoying real benefits.

CSOs in Moldova **may obtain public benefit status under** a clear, simple, and inexpensive procedure. However, the mandates of the Certification Committee members expired in 2020 and no decision regarding public benefit statuses was issued during the reporting period. Therefore, many CSOs whose status expired could not renew their statuses and lost their benefits. The status is particularly useful for local and sport 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. In Armenia, however, the so-called charitable status for specific projects is complicated and creates an administrative burden and an obligation to request approval for each transaction. Special bodies/commissions award the statuses. Also, the status is provided only for the duration of the project, while in Moldova it is provided for a reasonable period of five years.

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

The tax **incentives for financial and in-kind donations** to CSOs are insufficient and the procedure to obtain them is not fully clear and simple.

Table 5. Tax benefits for donors

Country	Tax benefits for individual donors	Tax benefits for corporate donors
Armenia	No benefits are available	The assets, work or services provided to CSOs can be deducted from the profit tax base, but not more than in the amount of 0.25 per cent of the gross income within one financial year (applicable for donors such as companies, individual entrepreneurs, CSOs carrying out economic activities, etc.)
Azerbaijan	No benefits are available	Up to 10 percent of the profit from the reporting year is free of taxation from 1 January 2019, for a period of 10 years if it is donated (via wire transfer) to enterprises, institutions and organisations involved in science, education, health, sports, or culture. Since March 2020, a mechanism was introduced for corporate social responsibility (CSR) for businesses to distribute the 10 percent. However, only CSOs in the sphere of culture will be able to comply with the criteria.
Belarus	No benefits are available	Tax deduction (in the amount not exceeding 10 per cent of gross profit) is available to corporate donors who provide aid only to public associations and foundations directly listed in the tax code (currently 17 organisations are listed there).
Georgia	No benefits are available	Legal entities can deduct the value of money, or the market value of free service/property gratuitously donated to charities in the maximum amount of up to 10 per cent of their taxable income
Moldova	No benefits are available	Donations are deductible up to 5 per cent of the taxable base
Ukraine	Charitable assistance in the form of funds, property, or services to CSOs can be deducted in an amount not exceeding 4 percent of taxable income During the quarantine regime the 4 per cent limitation was cancelled for income taxpayers when providing charitable aid	The amount of provided charitable assistance can be asserted as an expense. However, if a legal entity earns over 700,000 EUR per year, such a legal entity is entitled to assert only 4 per cent of the income for the past year as an expense.  Individuals and legal entities who delivered goods, performed works, provided services to entities in the field of physical culture and sports, free of charge to apply a tax rebate of up to 8 per cent of income for the previous year. If the free supply of goods, works, services in other areas is made during the year, the amount of the tax rebate will be up to 4 per cent of income for the previous year.



Only Ukraine has tax benefits for individual donations. However, the procedure is quite complicated in practice. The rest of the countries only provide certain incentives after corporate donations. The procedures, however, are complex and not functional which is one of the reasons that discourage many businesses from applying for tax exemptions.

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

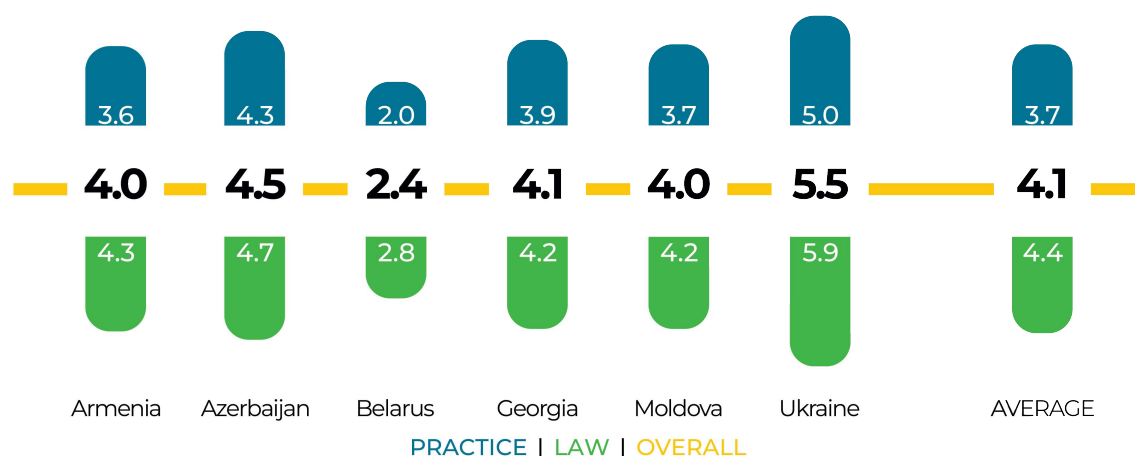
All of the countries have a **separate law that regulates volunteerism**, except for Belarus and Armenia. These laws generally lack a clear definition of volunteering and volunteer work, especially one clarifying that host organisations and volunteers cannot be viewed as an illegal workforce. In Belarus and Armenia, the authorities have developed draft laws on volunteering in consultation with CSOs, yet these have not been adopted. In Armenia, the existing legislation does not provide a clear definition of and incentives for volunteering. In the other four EaP countries, there is already a **special regulation** on volunteering. However, these laws **establish additional burdens and restrictions for engaging volunteers**. Namely, the volunteerism regulation is rarely consistent and harmonised with other related regulations which leaves gaps in many aspects. In Moldova, the host institution must develop a three-year volunteering programme, keep registers, and provide volunteer cards. In Azerbaijan, the volunteer and the host organisation are required to have a written contract regardless of a minor and short-term volunteer assignment, with high penalties for violation.

Most of the **countries provide certain incentives to encourage volunteerism** (e.g., in Moldova, volunteering experience is considered as work experience upon employment, and during enrolling in higher education institutions, tax exemptions and facilities for local taxes to hosting institutions may be granted).

The practice of volunteering **increased during the Covid-19 pandemic in all countries of the region**. Volunteers, particularly through CSOs, supported vulnerable populations, including the elderly and people at risk. They delivered food, raised funds for medical equipment and personal protective equipment. On the other hand, due to the pandemic related restrictions, the regular offline engagement of volunteers in CSOs decreased. Also, there are cases when CSOs in practice face obstacles and excessive bureaucracy when engaging volunteers, and difficulties or restrictions when it comes to engaging foreign volunteers, and there is a lack of support programmes for volunteers for which CSOs must secure operational costs.

## 2.10 State-CSO Cooperation

### Area 10. State-CSO Cooperation



State–CSO Cooperation is the area with the second lowest overall score, directly following the area of State Support. Ukraine is standing out as a leader in the area, evidenced by the newly-adopted National Strategy for Civil Society Development, with the other countries trailing behind. In Belarus, State-CSO cooperation significantly deteriorated, considering the overall repressive approach of the state towards CSOs.

In all countries of the region, except for Belarus, State–CSO cooperation is shaped by different state policies (concepts and strategies). The only country that adopted a new strategic document during the reporting period is Ukraine (the National Strategy for Civil Society Development 2021–2026). The rest of the countries have already adopted certain policy documents (Georgia, Azerbaijan), and some have already expired (Moldova). Only Moldova and Azerbaijan have special mechanisms (councils) for supporting cooperation with CSOs.

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

Ukraine and Moldova have adopted comprehensive policy and strategic documents on CSO development and cooperation between the state and CSOs, which include action plans for implementation and responsible state institutions. Ukraine is the only country in the region with an updated national strategy for civil society development. In Moldova, the strategy expired in 2020, and a new one has not yet been drafted. Georgia, Armenia and Azerbaijan also have policy documents that were developed in the past. In Georgia, there were attempts to adopt the State Concept for CSO Development in 2021. However, it is still pending review by parliament. Belarus is the only country without any state policy that facilitates cooperation with CSOs and promotes their development.

Table 6. Strategic and Policy documents for CSO development and cooperation with CSOs

Country	Period	Name of document
Armenia	2014	Concept of Institutional and Legislative Changes for CSOs' Development
Azerbaijan	2007	Decree of the President on approving a Concept on State support to NGOs
Georgia	2013	Memorandum for Cooperation
	2020	State Concept for CSO development ( <i>pending</i> )
Moldova	2018-2020	Civil Society Development Strategy
Ukraine	2021-2026	National Strategy for Civil Society Development
	2016-2020	National Strategy on Facilitating the Development of Civil Society in Ukraine

In Ukraine and Georgia, with the most recent strategic documents in the reporting period, CSOs actively participated in their creation. Ukraine is at the forefront, having developed this strategy in an exceptionally participatory process, with some parts even led by CSOs. Several hundred CSOs joined this online process organised by the Secretariat of the Cabinet of Ministers of Ukraine.

The implementation of such policy documents also needs to be monitored and assessed, however. The strategies in Moldova and Ukraine both have provided for monitoring and evaluation mechanisms. The new Strategy in Ukraine has a section on Implementation, Monitoring and Evaluation Mechanisms of the Strategy to prepare the evaluation of implementation and results achieved. However, the Strategy was just adopted, so it is too early to consider its implementation, and effective mechanisms for financial support for its implementation are yet to be created. In Moldova, according to the self-evaluation report, only 50 per cent (or half) of the planned activities were implemented. Also, the monitoring was assessed as deficient since the Strategy Monitoring Committee (comprising three representatives from each sector: CSOs, the government, parliament, and donors) has not been set up. The other constraints in the monitoring process refer to the insufficient contributions of CSOs to the monitoring and evaluation and the failure to monitor parliament's actions.

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

Public councils and other consultative bodies for dialogue, cooperation and developing policies are widespread in practice in all the countries of the region. In some countries, the establishment and operation of public councils are provided for in law (Armenia, Moldova, Azerbaijan). For example, in Armenia, councils should be

established in a transparent manner and meet at least quarterly. In Azerbaijan, the detailed procedures for operation and transparency of public councils are further elaborated on in by-laws. In Ukraine, public council members can be selected by online voting.

Moldova and Azerbaijan have established councils dedicated to cooperation with and the development of CSOs. In Azerbaijan, the NGO Support Agency has the status of a public law entity with an Advisory Board composed of independent CSOs, the MoJ, the Ministry of Finance and the President's Office. In Moldova, the mandate of the National Participation Council ended in 2019, and the Civil Society Council ceased to exist in 2020 after a few years of inactivity. In Armenia, the Public Council (Public Chamber) was established as an advisory body to the government by the Constitution. Even though it is not specifically set up for cooperation with and development of CSOs, some of its functions include representing the interests of different sections of society, facilitating civil society participation in public administration, and identifying public opinion on issues of public interest.

The **work of the consultative bodies** in 2021 was particularly affected by the Covid-19 pandemic measures and the meetings of such bodies were either non-existent or rare. CSOs from different regions face greater difficulties compared to those located in the capital city, as they need to travel and cover for travel expenses (e.g., in Armenia) to join the work of a council. It is particularly challenging for watchdog organisations that are more critical of certain government policies to build meaningful cooperation with state authorities, especially on topics of public contention such as judicial reforms, reforming intelligence services, and others (e.g., Georgia). Finally, even though CSOs consider the councils/bodies as a useful mechanism for information exchange and maintenance of dialogue, there **is lack of meaningful consideration of CSOs' input and proposals** or feedback on this.

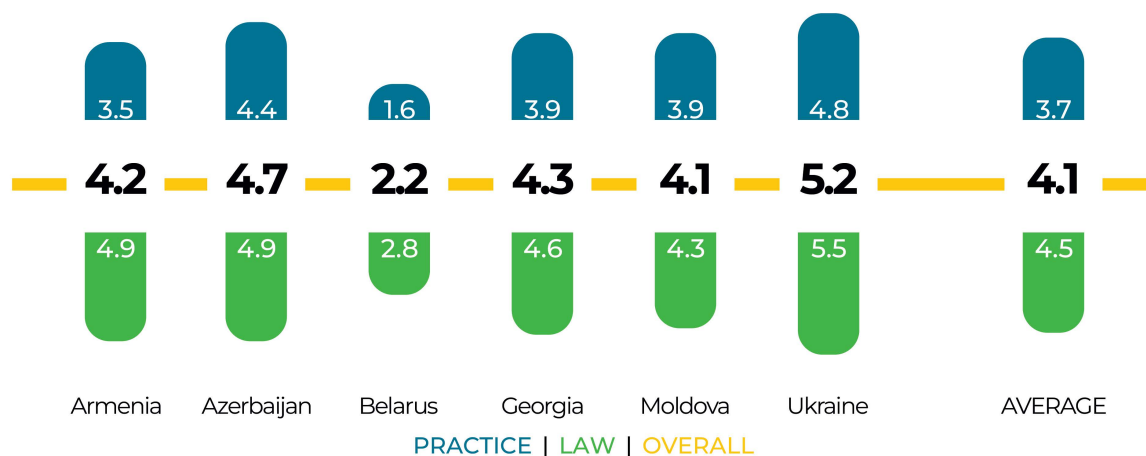
CSOs have **numerous opportunities across most of the countries to participate in the work of the consultative bodies in different state institutions and on different issues** (civil society development, anti-corruption, women's issues, issues affecting ethnic minorities, children, etc). In Moldova, the transparency legislation provides public institutions with a framework for creating temporary working groups with the participation of CSOs for developing or consulting with public policies. However, on the contrary, in 2021 in Belarus, the government decided to dissolve more than one hundred regional public councils for protection of culture despite petitions and statements against this decision. CSOs considered these councils as effective and transparent.

Multi-stakeholder platforms, such as the OGP, provide other important cooperation opportunities for CSOs. An exception to this is the situation in Belarus which is not part of the initiative. In Azerbaijan, the OGP was officially suspended, but the country

has adopted a new Action Plan in 2020 which includes important commitments related to civil society. Currently, the OGP is assessing Azerbaijan's status. The action plans of the OGP in each member country increasingly include relevant CSO environment issues, among others, and they are developed in a participatory manner. In Ukraine, in May 2021, Open Government Week took place, at which the Cabinet of Ministers and CSOs jointly addressed the issues of increasing the level of openness of the public administration and establishing cooperation between members of the public and authorities at all levels. In Georgia, the government has suspended all work on the OGP under the pretext of the Covid-19 pandemic, despite the progress in creating plans and structures for dialogue and transferring responsibility from the MoJ to the administration of the government.

## 2.11 Digital Rights

### Area 11. Digital Rights



Digital Rights is the area with the third lowest overall scores in the region. Ukraine is the leader in Digital Rights and provides protections for these rights to a certain extent, i.e., freedom of internet use, free expression of views and beliefs in the digital area, and many digital services and skills-building for the public. Conversely, Belarus demonstrates how the government can commit massive violations over different aspects of digital rights with the aim of restricting CSOs, activists and citizens.

Digital technologies and AI are enabling public services, dialogue, and even civic freedoms in all the countries in the region. On the other hand, there are numerous cases of surveillance and privacy violations aided by digital technologies. Digital rights are protected through certain regulations covering freedom of expression, right to privacy, freedom of information, cybersecurity and counter-terrorism and other relevant legislation. There is still lack of laws or practices to ensure compliance of the development and use of digital technologies with human rights standards (for example, for surveillance, AI systems, and the use of facial recognition systems by law enforcement agencies). Some countries also create conditions for the enjoyment of digital rights. Access to the internet is available across the region; however, the development of the internet infrastructure is advancing slowly.

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

**Digital rights are evolving in the region.** In most of the countries, except for Belarus, a plethora of laws provide guarantees on the protection and exercise of some aspects of digital rights. In some countries, there are constitutional provisions, laws and regulations **covering freedom of expression, right to privacy, data protection, cybercrime laws, access to the internet, strategies, etc.** The **limitations on digital rights in different countries differ in their specificity.** They are generally based on the principles of legality, legitimacy, proportionality, and necessity. However, they lack clarity and are usually very broad (public calls to



violence and swearing are criminalised in Armenia, including on online platforms). During martial law or a state of emergency, different types of limitations were imposed, such as limitations over access to the internet in Georgia.

In all countries, there is lack of **comprehensive data protection and privacy laws** to protect **CSOs' and users' online data against undue** collection, processing, transfer, sale, or retention. However, there are constitutional guarantees on privacy and different laws in each country, except for in Belarus. These protect freedom and secrecy of correspondence, telephone conversations and other means of communication from illegal surveillance (such as in Armenia) or the information, informatization and information protection (including on the internet) in Azerbaijan. In Belarus, the law requires the private digital service providers to provide the possibility to trace, control and intervene in private communications. The **government institutions and relevant bodies** ensuring data protection and privacy are not guided by appropriate laws. In Georgia, the recent amendments to the Law of Georgia on Information Security expanded the mandate of the Operational-Technical Agency (OTA) of the State Security Service to directly access information systems (including personal data) of the executive, legislative and judicial authorities, as well as the telecommunication sectors and indirect access to personal and commercial information.

**Cybercrime laws or other criminal laws** related to the digital sphere **are limited to illegal acts. However, they are not clearly prescribed and are broad and vague** in most of the countries of the region which provides space for undue limitations. The extreme situation in Belarus ensures that national security, border control or counter-terrorism laws authorise opaque and unaccountable government requests for personal data, where the concerned user has no knowledge or right to remedy. In Ukraine, a draft law from July 2020 provides for a significant expansion of the powers of the Security Service of Ukraine to restrict access to identified information resources to prevent a terrorist act or undermine the constitutional order, violate the sovereignty and territorial integrity of Ukraine, to aggravate the socio-political or socio-economic situation, etc. Ukraine's laws also provide for censorship of some websites through three mechanisms for blocking internet resources (related to child pornography, gambling, and infringing copyrights), as well as a separate mechanism for blocking Russian websites and content due to the threats to Ukraine's national security.

In several countries, the **government has undertaken measures to prevent or disrupt** an individual's exercise of digital rights. During the Nagorno-Karabakh War, there were limitations on access to digital tools such as social media and websites in both Armenia and Azerbaijan. Examples of restricted internet access were recorded in Azerbaijan by blocking social media platforms and 'throttling' the internet. Also in

Belarus in May 2021, the government amended the Telecommunications Law to allow for shutting down or limiting the operation of telecommunications networks in response to alleged threats to national security involving the internet. In an isolated case, in Georgia, during the protests at the Namakhvani Hydroelectric Power Plant in April 2021, the protesters claimed that the government had interrupted the internet connection to disrupt the demonstration.

**In practice, there are instances in which state institutions use technology to silence, carry out surveillance on, or harass CSOs, human rights defenders, activists, and protesters for their online activities and to block CSO websites and blogs or remove content.** In Georgia, CSOs' and activists' privacy was violated through alleged unlawful surveillance via phone tapping by state authorities. In Belarus, the state created 'watch lists' of persons whose social media activity is monitored to inform future arrests or for special border checks. The state also created a database of people attending demonstrations that automatically prepares reports. The authorities also engage in a random check-up of individuals on the street. This check includes a person's cell phone with the aim to review the content that has been read. The refusal of provision of the private device (cell phone) is punishable by 15 days' detention. The authorities also engage in trolling, doxing or cyberattacks on CSOs and other members of civil society. CSOs and activists fear pressure or arrests for their activities online. State representatives lead smear campaigns against activists or CSOs on social media platforms (either by revealing their identity, using fake accounts, or posting anonymously). Posting prohibited content online in Belarus – the definition of which is quite broad and includes links to extremist materials, calls for mass actions, publications on political topics or critical speech against law enforcement or the ruling political regime, insult of state officials, judges, or the president on social networks - is a common reason for unjustified prosecution (including of CSOs' representatives and activists) and harsh penalties such as prison sentences.

None of the countries in the region has **explicitly legislated the development and use of digital technologies and AI** to comply with international human rights standards, even though there are numerous examples such as the one in Georgia, where six different institutions use different AI systems in their work (the Ministry of Internal Affairs, the General Prosecutor's Office of Georgia, the Georgian National Tourism Administration, the Education Management Information System and the National Center for Educational Quality Enhancement) without any appropriate regulations. In practice, there is no available information on whether state institutions and the private sector conduct human rights due diligence, including impact assessments, or provide transparency into the design, development, and deployment of digital technologies. In Ukraine, CSOs are investigating the implications of the development and use of digital **technologies including AI and automated systems** on human rights. For example, they have raised concerns about

the use of video cameras equipped with face recognition technology. Such video cameras are set up by local governments and can already be found in Kyiv, Lviv, Zaporizhia, Uzhhorod and Vinnytsia. Their use, as well as the use of data recorded on them, is not properly regulated by law.

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

Access to the internet is fundamental to exercising human rights online, especially freedom of expression, association, and assembly. **Constitutional guarantees for internet access** are provided only in Georgia. In most of the countries of the region, **access to the internet** is not specifically regulated. For example, in Armenia the government adopted a strategy which, among other components, aims to ensure internet broadband access across the entire territory of the country, particularly in remote regions. Nevertheless, the internet is widely accessible. Several countries, such as Georgia and Moldova, engage in further efforts to improve and advance internet infrastructure through specific strategies. One of the priorities is decreasing digital inequalities (for example, in Georgia the rural or underdeveloped areas cannot access the internet and in Ukraine a draft law from December 2020 provides that vulnerable populations will be able to receive targeted financial assistance to access quality internet if the cost of such a connection is too high).

Apart from in Belarus, all countries allow for websites to **operate freely with net neutrality**, which, in principle, means that ISPs do not control what users do online. For example, in Armenia, the Public Services Regulatory Commission adopted a resolution that the telecom operators and ISPs must publish and inform the subscribers in case they do not support certain protocols or prioritize specific traffic. In Belarus, net neutrality laws and practice hinder the existence of an open and fast internet and favour some websites over others.

There are certain **oversight mechanisms** which protect digital rights, even though they are not specifically established for that purpose, except for Belarus, where access to justice is systematically hindered. In certain countries, these are specialised institutions for the protection of personal data, human rights, or general protections such as the public defender, or state inspectors. There are also **certain remedies for violation** of digital rights that differ across countries and which can be accessed through relevant state bodies or in an administrative manner or via the courts. However, in practice these protection mechanisms and remedies are not well known or widely used.

The governments rarely provide for **participation and dialogue** of different stakeholders, including civil society, when formulating and adopting strategic documents **on digitalisation, digital technology and AI**. In Ukraine, there was a public discussion organised; however, CSOs were not involved in the discussion. In

Armenia, the strategy on digitalisation was published on an e-draft platform for public consultation.

Table 7. Strategic documents on digitalisation, digital technology and AI, responsible institutions, and involvement of CSOs

Country	Strategic document and responsible institutions	Involvement of CSOs
Armenia	Digitalization Strategy and Action Plan for 2021-2025	No significant involvement of CSOs Published on e-draft platform for public consultations
Azerbaijan	Government programme for the expansion of digital payments in the Republic of Azerbaijan in 2018-2020 (expired) "Action Programme for the formation of 'e-government' in the Republic of Azerbaijan in 2010-2011" (expired)	Documents state involvement of CSOs
Belarus	State Programme 'Digital Development of Belarus' for 2021-2025	No involvement of CSOs
Georgia	National Strategy – Digital Georgia (Ministry of Economy and Sustainable Development)	No involvement of CSOs
Moldova	National Strategy Digital Moldova 2020, expired (Deputy prime minister for digitalisation)	No information available
Ukraine	1) Concept for the Development of Artificial Intelligence in Ukraine (Ministry of Digital Transformation) 2) Information Security Strategy	1) Public discussion 2) No involvement of CSOs

**In practice, there are numerous examples of state institutions that engage in or finance activities aimed at bridging the digital divide.** Specific CSOs are at the forefront of digital rights education (e.g., in Armenia, Georgia) and collaborate on these issues with institutions. They provide digital skills to citizens through guides, awareness-raising campaigns and trainings on digital and media literacy and cyber hygiene. **Dedicated state institutions to support digital education,** access to technology and digital literacy are present in several countries of the region. In Moldova, the Electronic Governance Agency (EGA) is conducting training and information campaigns targeting the digital divide. In Ukraine, the Ministry of Digital Transformation is responsible for developing the digital skills of citizens. Also, the Ministry promotes the development of digital education as a priority, and 1,500 offline digital education hubs were created in various cities in Ukraine, as well as the

portal *Diiia.Digital* education. In Azerbaijan, the government prepares short videos to be shared on TV and online to increase digital literacy.

In all countries of the region, **there are numerous cases of the use of digital technology to enable the exercise of various aspects of the CSO environment.**

However, the state institutions leading and enabling these e-services do not always provide clarity and promote the standards on collection/disclosure of private information, particularly sensitive data of vulnerable groups.

Table 8. Mapping of e-services/digital technology supportive of the CSO environment in the region

Different elements of the CSO environment	E-services/digital solutions
Establishment and online registration of CSOs	Online registration of CSOs is available in Ukraine and Georgia. In Azerbaijan, <a href="https://qht.gov.az/">https://qht.gov.az/</a> is available only for amendments to the registration documents
Reporting (annual, taxes, etc.) of CSOs	Armenia: online platform for both tax and annual reporting Azerbaijan: <a href="https://www.e-gov.az/en">https://www.e-gov.az/en</a> for submission of annual reports Belarus: possible for tax and other reports Moldova: Financial reporting and other types of annual reporting Ukraine: Financial reporting and other types of annual reporting
Protest notification system	Moldova: Not provided by legislation. Technically available in Chisinau <a href="http://intruniri.chisinau.md/">http://intruniri.chisinau.md/</a> . De facto used periodically.
Participation in decision-making	Armenia: e-draft.am (consultations on legal drafts) Belarus: <a href="https://forumpravo.by/">https://forumpravo.by/</a> Moldova: <a href="http://particip.gov.md">particip.gov.md</a> Ukraine: <i>Vzaemo.Diiia</i> Platform (comment on Draft Laws and participate in discussions); <i>Diiia.Digital</i> Community platform (public consultations, participatory budget, etc.)
Access to Information	Moldova: Requests to access information may be submitted online Armenia: e-request.am (unified platform for information requests, complaints, applications to any state body) Azerbaijan: Access to information can be submitted through <a href="http://www.e-gov.az">www.e-gov.az</a> and on various websites of most government agencies
State duty to protect	Armenia: e-rights.am (platform of the Human Rights Strategy)
State support (state funding, tax benefits, donations, volunteerism)	Armenia: <a href="http://armeps.am">armeps.am</a> (for state grant applications, state procurement bids, and the relevant information) Azerbaijan: <a href="https://ngogrant.az/">https://ngogrant.az/</a> by NGO Agency. Online submission of documents is available Ukraine: <i>Vzaemo.Diiia</i> Platform (competition for CSO grants on specific issues)
Other e-services	Armenia: <a href="http://petition.am">petition.am</a> (submitting petitions) Georgia: <a href="http://my.gov.ge">My.gov.ge</a> (Unified Portal of Electronic Services; Emergency hotline (112) mobile app (victims of violence) Moldova: <a href="http://e-services.md/">http://e-services.md/</a> (portal of electronic services), online petitioning, <a href="https://guvern24.md/">https://guvern24.md/</a> , <a href="https://www.particip.md/">https://www.particip.md/</a> (crowd funding)

Armenia: e-register.am (for information on registration and registered entities, as well as online registration for business), e-citizen.am (for citizens to check their state-owned data), e-gov.am (information on government decisions, reports, registers, etc.), arlis.am (database of all legal acts with amendments incorporated), gnahatir.am (for assessment of state-provided services), datalex.am (electronic database of court decisions), etc.

Azerbaijan: [www.e-gov.az](http://www.e-gov.az) - centralised portal of e-government services



# III. KEY PRIORITIES

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## 3.1. Key regional priorities

Ukraine scored highest in fulfilling the overall standards of Law and Practice of the CSO environment in the EaP region. Ukraine provided favourable conditions for CSOs to enjoy freedom of association, as well as for equal treatment between businesses and all CSOs. CSOs and the wider public also had possibilities to participate in the decision-making process and well-developed CSO-government cooperation led to the adoption of a new CSO strategy. In contrast, Belarus is the country with the lowest overall score which is a reflection of the severe legal restrictions, further shrinking of the civic space and numerous violations of human rights and civic freedoms, particularly of marginalised groups, activists and CSO representatives in practice.

In spite of the legal restrictions and numerous crises faced by the six EaP countries, there were also several positive developments in support of CSO operation and sustainability. However, that progress is insufficient and slow. Immediate advancements through progressive laws, policies and practices are needed in the following areas of priority in the region:

**Freedom of Association and Access to Funding** should be ensured for everyone in Belarus and Azerbaijan via an enabling environment for registration and operation without interference. In Belarus, the ban on unregistered public associations should be abolished and the related criminal liability repealed. The practice of forced liquidation of CSOs should cease, together with all forms of pressure on CSOs, lawyers and human rights defenders. In Azerbaijan, the authorities should enable and simplify the procedure for the registration of grants and donations and the reporting requirements on CSOs (for instance, CSOs not being required to report small donations of 110 EUR per donor per year). Finally, both Belarus and Azerbaijan should lift restrictions on foreign funding and other funding mechanisms. In Belarus, the authorities should stop the misuse of legislation and investigative powers on combating terrorism and AML/CTF legislation to restrict access to funding.

**State Support** should be further developed in the region as an important source of CSO sustainability. One of the main steps in each of the countries should be to create unified legislative standards for transparent, competitive, and accountable procedure for the allocation of state funding that is open to all CSOs both at the national and local levels. The tax environment should be improved to encourage philanthropic giving. Other funding mechanisms should be further developed and encouraged, such as contracting social services and social entrepreneurship.

The **State Protection of CSOs** against interference and unjustified attacks is important to ensure that they can enjoy their civic freedoms and operate in the CSO environment. Appropriate and effective investigation of attacks against CSOs and activists is needed; for example, to address the widespread hate speech and disinformation in online platforms that often targets CSOs in Armenia and to investigate alleged illegal and arbitrary surveillance of CSO and other stakeholders in Georgia.

**Meaningful participation in decision-making processes** is important, particularly in times of crisis. To ensure this, the states, together with CSOs, should co-design and adopt unified standards on effective public participation and implement them using various methods (e.g., online platforms). Overall, **meaningful CSO-government relationships** are necessary for the CSO environment to further develop. Jointly developed strategic documents for cooperation and development of CSOs should be the priority of national governments and implementation is key where those strategic documents exist, such as in Ukraine.

## 3.2. Key country developments and priorities

### Armenia

#### Key developments:

- The requirement for all public organisations to publish annual reports entered into force in 2021. While the requirement is not considered to be overly-burdensome, there are fears that it could lead to further interference by the state.
- Hate speech and disinformation increased and negatively impacted CSOs. Several legislative amendments were initiated to address increased instances of libel and insult, conditioned by the state of martial law and the accompanying political tensions, but these have been found to be restrictive by media organisations.
- The government amended the procedure for state funding allocation to regulate the procedure of announcing grant competitions and the selection process. In addition, the government started to use the online public procurement platform for the collection of applications and the publication of grant contract documentation.
- Legislative changes allowed CSOs specialised in disability rights to present public interest cases in the courts to protect the rights of people with disabilities, even though with several complicated preconditions.

#### Key priorities:

- Develop jointly with CSOs, adopt and implement a comprehensive strategy/roadmap for a more enabling environment for CSOs.

- Ensure CSO financial sustainability (increased, transparent, competitive and accountable state funding at the national and local levels; a more favourable tax environment).
- Provide more meaningful participation in policymaking by utilising the available institutional mechanisms of participation, engaging CSOs in the early stages of policy development, enforcing mandatory consultations on all legislative drafts and demonstrating a genuine interest and commitment in seeking input from civil society and the public.
- Address the widespread hate speech and disinformation in online platforms that often targets CSOs and associated persons, including through the adoption of anti-discrimination regulations, issuing public statements and ensuring the proper investigation of attacks against CSOs and activists.

## Azerbaijan

### Key developments:

- Government initiatives and meetings for dialogue with various CSOs to understand their needs have increased.
- The NGO Support Agency was established which replaced the former NGO Support Council. To increase the level of transparency in the new Agency, an independent Advisory Board was formed that included CSOs.

### Key priorities:

- Simplify the registration procedure for CSOs by reducing timelines and eliminating subjective treatment by the MoJ and ensure equal treatment of CSOs compared to businesses during their registration process and operation.
- Simplify reporting obligations of CSOs depending on their size and turnover.
- Abolish the requirement to obtain permission to hold events in the regions.
- Simplify the registration of grants and donations (eliminate subjectivity on decisions for registration and digitalise the process to be fast and accessible).
- Abolish the requirement to register service contracts.
- Eliminate the need to report on small donations (e.g., 110 EUR per donor per year).

## Belarus

### Key developments:

- The CSO environment in Belarus significantly deteriorated in 2021. Authorities forcefully liquidated hundreds of CSOs, restored criminal liability for activities of unregistered organisations, broadly applied other articles of the Criminal Code for repression and intimidation of citizens, to coerce media, CSOs and dissenting citizens into silence.

- Many CSO leaders and key activists have left the territory of Belarus to conduct their activities in other, supportive jurisdictions - mainly in Lithuania, Georgia, Poland and Ukraine. The space for activity of CSOs, whose activity centres and decision-making centres remain in Belarus, is rapidly shrinking, especially when it comes to dissemination of information.

### Key priorities:

- Release all individuals recognised as political prisoners, with the review and lifting of all sentences imposed on them and pending decisions on their liability. Political prisoners should receive adequate compensation and all politically-motivated criminal cases should cease.
- Abolish the Law “About counteraction to extremism” and all by-laws adopted under it, including the Index of extremist formations.
- Cancel criminal responsibility for organising and participating in the activities of an unregistered organisation (Article 193I of the Criminal Code) and abolish the ban on activity of public associations without registration.
- Stop the practice of forced liquidation of CSOs and cancel all court and local authorities’ decisions on forced liquidation of public associations, foundations and private institutions made in 2020-2021.
- Cease of all forms of pressure on CSOs, lawyers and human rights defenders, journalists, and independent media, including the state-inspired campaigns of discrediting these groups in the media.
- Close and destroy the Ministry of Internal Affairs’ unified database of participants in unauthorised demonstrations (also known as the BESporiadki database) and its equivalents.
- Avoid using facial recognition technology (FRT) and other techniques for identifying protesters, internet and cell phone users to persecute individuals for their opinions. Eliminate legislative possibilities and the practice of internet disruption and the blocking of websites without court decisions.
- Cease the misuse of legislation and investigative powers on combating terrorism and AML/CTF legislation to restrict civic freedoms, as well as access to funding for CSOs.

## Georgia

### Key developments:

- A surveillance scandal indicated alleged covert surveillance of citizens by the State Security Service of phone conversations of many individuals, including CSO representatives and journalists.
- Limitations on rights and freedoms have been also imposed due to the Covid-19 pandemic, posing challenges to the timely and in-person participation of CSO

representatives in decision-making, as well as the development of long-term plans and working schedules.

- Authorities failed to protect participants attending the 5 July Pride event, including from physical harm.

#### Key priorities:

- Adopt a systemic vision for state-CSO cooperation on all levels of the decision-making process and further institutionalise these standards.
- Develop unified legislative standards for state funding, encompassing clear guidelines for the award process.
- Urgently introduce legal amendments to create comprehensive legal safeguards for personal data processing and covert investigative actions, including by reforming the State Security Service of Georgia and increasing its oversight.
- Design and adopt unified standards/rules on public consultations of draft laws and policies at the national level.
- The Prosecutor's Office should prioritise and promptly investigate alleged illegal and arbitrary surveillance of CSO representatives, journalists, and others.

### Moldova

#### Key developments:

- Several laws and regulations were adopted such as the Law on Local Action Groups and the Regulation on Subsidising Jobs (regarding the employment of disabled people in social entrepreneurship).
- The revenue of CSOs from the percentage designation mechanism increased to 53 per cent.
- There was a positive shift in attitude towards cooperation with CSOs from parliament and the government.

#### Key priorities:

- Develop and adopt new strategic documents for the development of civil society and include new activities.
- Adjust the legal framework for public procurement to include a legal mechanism for contracting social services.
- Develop a unified online platform for transparency and CSOs' participation in decision-making.
- Amend the Law on Philanthropy and Sponsorship to encourage philanthropic activities.

- Develop 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.

## Ukraine

### Key developments:

- The government provided digitalisation of some of the CSO processes, such as online competitions to receive public funds for CSOs to the platform Vzaemo.Diia.
- The civil sector, together with the state institutions, developed an updated National Strategy for Civil Society Development for 2021-2026 that sets the state's priorities for the development of civil society for this period.

### Key priorities:

- Implement the provisions of the National Strategy for Civil Society Development for 2021-2026.
- Abolish the requirement for CSOs to provide information on their UBOs.
- Expand the range of CSOs receiving state support for project funding and expand the areas in which CSOs have access to funding (in addition to people with disabilities).

## 3.3. EU Priorities for the CSO environment in the EaP region

- **Maintain and strengthen focus on supporting an enabling CSO environment** in the countries of the region through continuous use of evidence. Within the CSO Meter project, ECNL and the country partners continuously prepare updates, briefs and topical analyses of pressing issues and trends, as well as comprehensive country reports with scores, which can be further used to **hold authorities accountable** for the lack of progress regarding the CSO environment.
- Incorporate key CSO Meter reports recommendations in policy dialogue with EaP country governments.
- Continue facilitating the dialogue between CSOs and state authorities on the issues facing the CSO environment at the regional and country level.
- Increase the **amount and types of funding for CSOs**, particularly to watchdog and human rights organisations, and for engaging in advocacy for improving the CSO environment (based on the CSO Meter recommendations).
- Advocate for the elimination of limitations on foreign, anonymous or other sources of financing, or of limitations on specific fundraising methods.



- Ensure a flexible approach regarding project implementation and management in the times of government restrictions and crises, including regarding project timelines, tools, deliverables, and reporting, as well as the need for security and relocation of staff, among others.
- **Engage in regular and direct consultations** with CSOs to understand their needs and the rapid changes in the environment.
- In **planning for funding priorities and political support** consider the:
  - a. politically motivated allegations and criminal and administrative charges made against CSO activists and CSOs by certain authorities;
  - b. specifics of CSOs that have moved their organisations abroad, as well as those that continue to operate within the country.

## IV. METHODOLOGY

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The CSO Meter supports regular and consistent monitoring of the environment in which CSOs operate in the EaP countries. It consists of a set of standards and indicators in eleven 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.

Through assessment and consultation with the core group of CSOs, in 2020, ECNL identified several emerging trends relevant to monitor in the EaP region, including digital rights, online assemblies, digital fundraising, climate activism, collective claims, strategic litigation against public participation and attacks against activists. As a result, in 2021, ECNL worked with partners to incorporate these trends into the CSO Meter. The major change was the development of a new Area II (Digital Rights) covering the legal framework for digital rights, the practice related to their exercise (including attempts to limit digital rights through internet and communication shutdowns, pressure on bloggers and online activists, etc.) and the need to ensure that any digital technologies developed and used are human rights compliant. Another notable change was adding new indicators under Area 4 (Freedom of Peaceful Assembly) to reflect the new international protections and practices of digitally-mediated assemblies.

ECNL has worked with the methodology experts from the Research Institute on Social Development (RESIS) since 2020 on adapting the CSO Meter methodology package to enable both qualitative and quantitative comparisons of the different areas of the enabling environment across the EaP countries and relevant years. The proposal for the scoring model was consulted on and tested with the extended regional CSO Meter Hub via email and online events. With it, we aim to:

- i. assess the environment for civil society in each of the eleven areas;
- ii. enable tracking of developments/progress throughout the relevant years country by country; and
- iii. regionally compare the CSO environments.

The country partners, which, together with other CSOs, are part of the CSO Meter Hub, conducted the monitoring process and drafted the narrative country report. They also established an Advisory Board 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.

Based on the expanded CSO Meter tool and updated Methodology package, the partners, together with CSO Meter Hub members, implemented the monitoring and scoring process in a collaborative way and started the preparation of the country reports. Based on the country reports, ECNL prepared the regional report. The reports cover the period from September 2020 to December 2021.

## Monitoring and preparation of reports

The country reports were prepared in several key stages:

### Data collection and analysis

All six partners conducted extensive desk research and reviewed numerous relevant legal acts, amendments, reports, and articles. In addition, they implemented other data collection methods:

- **Request for access to information:** Partners in Armenia, Azerbaijan, and Georgia submitted 13 requests to access information on relevant areas of the CSO Meter to different state institutions, such as the State Registers, State Revenue Committee, the Parliament, and the Ministries of Justice, Finance, Education, and Culture.
- **Interviews with relevant stakeholders:** Partners in Armenia, Azerbaijan, Georgia, and Moldova conducted a total of 36 interviews with different stakeholders (8 state institutions, 22 CSOs, 3 international organisations and 3 private entities and banks).
- **Focus groups:** Partners in Armenia, Azerbaijan, Georgia, and Moldova organised a total of 8 focus group discussions with 86 CSO participants coming from both the capital cities and from different regions in the countries.
- **Brief consultative exchanges:** In Moldova, the partners conducted brief consultative exchanges with 13 CSO experts and policy makers to clarify isolated aspects of a certain issue.

### Drafting country reports and validation process

The partners prepared draft narrative reports based on the data analysis under each Standard within Law and Practice of the II areas that are subject to monitoring.

- ECNL reviewed the draft narrative reports in several rounds in terms of completeness, accuracy, logic of argumentation and quality of findings. The researchers implemented ECNL's suggestions and instructions and revised the report. Afterwards, ECNL organised an online meeting to harmonise the reports between the countries, to ensure the comparability and regional validity of data for the later scoring stage.

- After this review process, the country partners in Armenia, Azerbaijan, Georgia, and Moldova sent the narrative reports to the Advisory Board members in their country for review. The individual feedback and subsequent discussion were organised by these countries with the presence of a total of 34 Advisory Board members. The partners finalised the reports and shared them with ECNL upon the received feedback and discussion on the narrative reports and their recommendations with the Advisory Board members. In Ukraine and Belarus, this stage did not take place due to the difficult circumstances that the partners and Advisory Board members faced. However, consultations with CSOs and other Hub members took place informally.

Limitations of the country and regional reports:

- The reports cover the period of September 2020–December 2021. The important developments for civil society that occurred between the period of data collection and finalisation of the report were included in the executive summary of the report, but were not considered when assigning scores.
- The report does not explicitly cover the environment of CSOs in the breakaway regions (for example, the Transnistrian region of the Republic of Moldova). These territories are outside of the control of the constitutional authorities of the respective countries.

## Scoring process

### Measurement tool for the scoring process

For the scoring process a 7-point scale is used. The researchers and Advisory Board members assigned scores for each specific standard (separately for Law and for Practice). The score was assigned based on the research findings on the quality of legislation and the application of the specific standard in practice.

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. The 2021 scores in this regional report will serve as baseline scores and, in the coming years, progress will be measured against them.

### Stages of the scoring process

The scoring process was conducted in **three main stages**:

1. **Country researchers assigned reference scores.** In each country, country researchers provided the scores in each area of the narrative country report, taking into consideration the country context and the regional perspective.

2. **Advisory Board members in each country, except for in Ukraine, assigned scores.** 58 Advisory Board members assigned scores, and the country partners collected, checked for completeness, and organised the scores in an Excel template.
3. **Preparation of final scores.** ECNL, together with the methodology experts, applied the following calculation method:
  - An arithmetic average is calculated from the Advisory Board members' scores for each standard.
  - The final value of each standard is then calculated according to a formula in which the reference score participates with 50 per cent, and the Advisory Board members' average score with 50 per cent.
  - The value of each area is then calculated as the average value of the final values of each standard.
  - Our partners in Ukraine have not been able to fully-implement the scoring process. Ukraine is the only country where the final score is only derived from the researcher's reference scores, which were reviewed by ECNL.

## Presentation and update of scores

With the aim to present and compare the scores across years (the Overall, and the scores for Law and Practice) for each area in each country in a clear and simple way, we are using only one decimal place in the country reports and the regional report. For this, to arrive at a score with one decimal place, we apply a calculation in which the average scores for Law and Practice for each area are first rounded in Excel to one decimal point. Then the overall score for the area is averaged based on these rounded two scores (Law and Practice). We have applied this approach retroactively for 2021 and updated the overall scores in March 2023.

### As a result, the following changes were applied per country:

1. **Armenia:** 3 overall area scores are updated: Area 8 from 4.6 to 4.7, Area 9 from 4.0 to 4.1, and Area 10 from 3.9 to 4.0.
2. **Azerbaijan:** 3 overall area scores are updated: Area 4 from 3.8 to 3.9, Area 7 from 4.3 to 4.4, and Area 11 from 4.6 to 4.7. Also, the overall score of the country is updated from 4.1 to 4.2.
3. **Belarus:** 3 overall area scores are updated: Area 2 from 2.7 to 2.8, Area 4 from 1.5 to 1.6, and Area 7 from 2.6 to 2.7.
4. **Georgia:** 4 overall area scores are updated: Area 3 from 5.6 to 5.7, Area 4 from 4.5 to 4.6, Area 10 from 4.0 to 4.1 and Area 11 from 4.2 to 4.3. Also, the overall score of the country is updated from 4.7 to 4.8.
5. **Moldova:** 6 overall area scores are updated: Area 1 from 5.4 to 5.5, Area 3 from 5.1 to 5.2, Area 5 from 4.7 to 4.8, Area 6 from 4.9 to 5.0, Area 8 from 4.5 to 4.6 and Area 9 from 4.2 to 4.3. Also, the overall score of the country is updated from 4.6 to 4.7.
6. **Ukraine:** 4 overall area scores are updated: Area 2 from 5.8 to 5.9, Area 3 from 5.0 to 5.1, Area 5. from 5.3 to 5.4 and Area 11 from 5.1 to 5.2. Also, the overall score of the country is updated from 5.2 to 5.3.

Finally, the average overall scores across all countries for 2 areas are updated: Area 2 from 4.5 to 4.6, and Area 10 from 4.0 to 4.1.

## V. BIBLIOGRAPHY

## LEGISLATION

## RESEARCH & REPORTS

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## Annex. Regional scores 2021

### AREA

Country	1	2	3	4	5	6	7	8	9	10	11	Average
Armenia	5.7	4.9	5.4	5.3	4.8	4.7	4.8	4.7	4.1	4.0	4.2	4.8
Azerbaijan	4.0	3.6	3.0	3.9	4.6	4.3	4.4	4.6	4.3	4.5	4.7	4.2
Belarus	2.4	2.8	2.4	1.6	2.7	2.0	2.7	2.0	2.4	2.4	2.2	2.3
Georgia	6.1	5.6	5.7	4.6	4.8	4.9	3.9	4.4	4.2	4.1	4.3	4.8
Moldova	5.5	4.6	5.2	5.2	4.8	5.0	4.4	4.6	4.3	4.0	4.1	4.7
Ukraine	5.9	5.9	5.1	5.2	5.4	5.3	4.7	5.1	4.8	5.5	5.2	5.3
<b>Average</b>	<b>4.9</b>	<b>4.6</b>	<b>4.4</b>	<b>4.3</b>	<b>4.5</b>	<b>4.3</b>	<b>4.1</b>	<b>4.2</b>	<b>4.0</b>	<b>4.1</b>	<b>4.1</b>	<b>4.3</b>

### LEGISLATION

Country	1	2	3	4	5	6	7	8	9	10	11	Average
Armenia	5.8	5.0	5.8	5.7	5.3	5.1	5.8	5.3	4.2	4.3	4.9	5.2
Azerbaijan	4.5	3.8	3.2	4.4	5.0	5.0	4.9	5.0	4.6	4.7	4.9	4.5
Belarus	2.9	3.2	2.7	1.9	3.2	2.4	3.6	2.6	2.8	2.8	2.8	2.8
Georgia	6.2	5.8	6.0	5.2	5.2	5.6	4.6	4.9	4.4	4.2	4.6	5.2
Moldova	5.6	4.8	5.6	5.4	5.2	5.3	5.3	5.0	4.6	4.2	4.3	5.0
Ukraine	5.9	5.9	5.3	5.3	5.7	6.0	5.0	5.3	5.0	5.9	5.5	5.5
<b>Average</b>	<b>5.1</b>	<b>4.7</b>	<b>4.8</b>	<b>4.6</b>	<b>4.9</b>	<b>4.9</b>	<b>4.9</b>	<b>4.7</b>	<b>4.2</b>	<b>4.4</b>	<b>4.5</b>	<b>4.7</b>

### PRACTICE

Country	1	2	3	4	5	6	7	8	9	10	11	Average
Armenia	5.6	4.8	4.9	4.9	4.3	4.3	3.8	4.0	3.9	3.6	3.5	4.3
Azerbaijan	3.5	3.4	2.8	3.3	4.1	3.6	3.8	4.2	4.0	4.3	4.4	3.8
Belarus	1.9	2.3	2.0	1.2	2.2	1.6	1.7	1.4	1.9	2.0	1.6	1.8
Georgia	6.0	5.4	5.3	3.9	4.3	4.1	3.1	3.9	4.0	3.9	3.9	4.3
Moldova	5.3	4.4	4.7	5.0	4.3	4.6	3.4	4.1	3.9	3.7	3.9	4.3
Ukraine	5.9	5.8	4.8	5.1	5.0	4.5	4.4	4.9	4.6	5.0	4.8	5.0
<b>Average</b>	<b>4.7</b>	<b>4.3</b>	<b>4.1</b>	<b>3.9</b>	<b>4.0</b>	<b>3.8</b>	<b>3.4</b>	<b>3.7</b>	<b>3.7</b>	<b>3.7</b>	<b>3.7</b>	<b>3.9</b>

### Legend:

- 1** Freedom of Association
- 2** Equal Treatment
- 3** Access to Funding
- 4** Freedom of Peaceful Assembly
- 5** Right to Participation in Decision-Making
- 6** Freedom of Expression
- 7** Right to Privacy
- 8** State Duty to Protect
- 9** State Support
- 10** State-CSO Cooperation
- 11** Digital Rights

