

# CSO METER REGIONAL REPORT



Monitoring Progress, Empowering Action

## ASSESSING THE CIVIL SOCIETY ENVIRONMENT IN THE EASTERN PARTNERSHIP COUNTRIES



### Executive Summary

This Summary presents key common trends affecting the civil society legal environment in the 6 Eastern Partnership (EaP) countries. It also highlights main recommendations on how to improve the legal environment in the EaP countries and the region as a whole. The findings are the conclusions of a one year process of monitoring and analysing the legal environment for civil society conducted under a tool called “CSO Meter” developed specifically for this purpose.\*A more detailed cross-country analysis of the state of the civil society environment in the EaP countries can be found in the CSO Meter Regional Report for the EaP countries (see [here](#)). Specific country analyses are detailed in the 2019 country reports (see [here](#)).

### Pilot monitoring in numbers across the region

562 responses to online surveys

54 interviews

19 focus group meetings with 188 CSO representatives

54 Advisory Board members overseeing the process

273 recommendations

Most recommendations per area: **STATE SUPPORT**

47

Most recommendations per country: **BELARUS**

72

**RIGHT TO PARTICIPATION**

41

The creation of the CSO Meter and country monitoring was led by the European Center for Not-for-Profit Law (ECNL) in collaboration with Transparency International Anti-Corruption Center (Armenia); MG Consulting LLC (Azerbaijan); the Assembly of Pro-Democratic NGOs in collaboration with the Legal Transformation Center (Belarus); the Civil Society Institute (Georgia); Promo-Lex Association (Moldova); and the Ukrainian Center for Independent Political Research (Ukraine). The action was supported by the European Union. For more information on the CSO Meter, see <https://csometer.info/> and the short briefing note <http://ecnl.org/wp-content/uploads/2019/03/CSO-Meter-briefing-paper-new-final.pdf>.



## Key trends shaping the civil society environment

Based on the 6 country reports, we have identified the following key trends that affect the civil society environment in the region:



### Restrictions on sources of funding challenge the financial viability of CSOs:

CSOs in the region face challenges to their ability to access diverse sources of funding and sustain their activities. The most significant challenges relate to accessing foreign funding or engaging in economic activities in Belarus and Azerbaijan.



### The internet revolution is reshaping the civic space in the region:

The internet is increasingly used in the region in everyday life and this has both positive and negative effects on the CSO environment. On the one hand, CSOs in some EaP countries are able to submit their reports online (e.g. Moldova and Ukraine), are able to access some information, including draft legal acts on dedicated websites (e.g. Georgia and Armenia) and can raise funds electronically. On the other hand, CSOs are sometimes victims of smear campaigns of various bloggers, vloggers, “trolls” and political leaders and the virtual space is full of disinformation campaigns, fake information, or clones of media or CSOs’ websites and profiles.



### Measures for countering terrorism financing significantly impact CSOs’ daily operation:

New measures aimed to counter the financing of terrorism continue to be adopted in the countries in order to abide by the standards of the Financial Action Task Force (FATF). These standards have far-reaching effects on the daily operation of CSOs, including on CSO reporting and everyday banking issues. Among others, CSOs have been subject to burdensome internal governance requirements in Azerbaijan; faced arbitrary blocking of their accounts in Moldova; and have had to submit extensive documentation to banks in Armenia and Ukraine.



### State interference in internal matters:

CSOs in the region are subject to attempts of the state to interfere in their internal matters, as well as with their right to privacy, including through wire-tapping of their offices and the homes of CSO representatives (e.g. Moldova).

## Key findings

The following key findings were identified as the most common throughout the region:

### Freedom of association:

Freedom of association is constitutionally guaranteed in all countries apart from Moldova but there are several challenges in practice. There are limitations for foreigners that wish to establish a CSO in Azerbaijan, Belarus and Moldova. The majority of countries reported cases of groundless refusals of registration, including Azerbaijan, Belarus, Moldova and Ukraine. Azerbaijan faces the biggest challenges related to lengthy registration procedures that can take up to several years. The lack of competence and implementation of laws by the local registration authorities limits access to registration in rural areas, among others, in Armenia, Moldova and Azerbaijan. CSOs are generally free to operate on the whole territory of the country or parts of it, apart from in Belarus. *Therefore, it is necessary to simplify the registration procedure and remove unnecessary barriers to make registration truly available to everyone.*

### Equal treatment:

CSOs are generally not treated equitably with business entities in all countries of the region except for in Georgia. In some countries, the registration procedure is significantly longer for CSOs than for business entities (e.g. Moldova) and/or the registration fee for CSOs is higher (e.g. Armenia). In addition, the public procurement rules in some countries are designed in favour of business entities and/or business entities are the preferred choice of state authorities in practice. A positive example is the DoZorro Monitoring

## CSO sector in the region



Most common legal forms: **association and foundation**

Other legal forms: private establishments/institutions (Belarus and Moldova), civic unions, charitable institutions charitable societies (Ukraine), non-entrepreneurial legal entity ('NELE', Georgia)



Highest number of registered CSOs per capita: **GEORGIA**



Lowest number of registered CSOs per capita: **BELARUS**



Lowest registration fee: **UKRAINE** (free of charge)



Highest registration fee: **MOLDOVA** (for foundations - EUR 135)



Shortest registration period: within 1 day – **BELARUS** (for establishments), **GEORGIA** (NELE), **UKRAINE** (charitable organisations)



Longest registration period: can take up to several years (**AZERBAIJAN**)

Portal in Ukraine that allows people and potential bidders to give feedback to the contracting authority, to discuss and evaluate the conditions of a specific tender and to prepare and submit a formal request to the controlling authorities. *Therefore, state authorities should review these discriminatory rules and regulations and amend them to ensure that they do not treat CSOs unfavourably. In addition, adopting such discriminatory measures should be avoided in the future.*

### Access to funding:

CSOs are generally free to seek, receive and use various types of resources in 4 out of 6 EaP countries. However, in Belarus and Azerbaijan several restrictions to CSOs' ability to access funding remain in place. In addition, CSOs receiving foreign funding are regularly victims of stigmatization and attacks by the state authorities. During the reporting period there have also been positive developments. Since February 2017, Armenian CSOs are allowed to directly engage in economic activities which makes Belarus the only country in the region where this is not allowed. *Therefore, governments should remove any barriers for CSOs to access both local and international funding as this is an inherent element of freedom of association.*

### Examples of limitations on access to funding



**Prohibition of anonymous donations**

**Limitations on cash donations**

**Limitations to raise funding online**

**Limitations on direct economic activities**

**Compulsory registration of foreign-funded service contracts and grants**

**Limitations on fundable purposes**

**Stigmatization and attacks**

### Freedom of peaceful assembly:

Freedom of peaceful assembly is constitutionally guaranteed in all countries of the region. In spite of this, some countries do not provide sufficient legal guarantees to ensure the implementation of this freedom for everyone without discrimination. For example, spontaneous and simultaneous assemblies are not protected in 2 out of 6 EaP countries (Azerbaijan and Belarus). Belarus is the only country requiring authorisation, although a 10-day notification principle has recently been introduced for holding assemblies in certain designated places. In addition, there have been several challenges related to the inadequate intervention of law enforcement bodies, or the lack of reaction thereof. *Therefore, state authorities should ensure that law enforcement bodies follow a human rights-based approach, and that they properly investigate any attacks on peaceful assemblies.*

## Right to participation in decision-making:

Participation of CSOs in decision-making processes is regulated. However, the participation mechanisms are not fully implemented in practice. Countries reported challenges related to the non-transparent work of public officials and limited diversification of available participation mechanisms. Even though all the countries in the region (with the exception of Belarus) have some laws regulating the access to information via individual requests and rules for the publication of documents and information related to decision-making, these are seldom followed in practice. *Therefore, state and local authorities should strengthen mechanisms and tools that facilitate CSO engagement in decision-making processes and ensure that draft laws are published in a timely manner, that the CSO participants in the working groups, committees or councils are selected through transparent procedures and that the recommendations of CSOs are taken into consideration.*

## Online platforms for consultation on draft laws

Armenia: <https://www.e-draft.am/>

Georgia: <https://matsne.gov.ge/>

Moldova: <http://www.particip.gov.md/>



## Freedom of expression:

Freedom of expression is constitutionally guaranteed in all countries of the region. Existing restrictions to this freedom relate predominantly to the criticism of CSOs by state authorities or political figures and limitations to freedom of expression online. The majority of the countries do not have a specific regulation on hate speech, although all of them have certain guarantees in place in order to prohibit incitement to hatred in practice. Defamation remains a crime in 2 out of 6 countries in the region, namely Azerbaijan and Belarus. *Therefore, state authorities should ensure that the international standards on freedom of expression are followed and they do not use offensive language or verbal attacks against CSOs.*

## Right to privacy:

The right to privacy is constitutionally guaranteed in all countries of the region, while 5 out of 6 countries have also adopted specific regulations on the protection of personal data. However, CSOs from some countries reported violations of their right to privacy by state authorities, particularly by wire-tapping their offices or the homes of CSO representatives. *Therefore, state authorities should ensure that CSOs are guaranteed their right to privacy and that there are no cases of illegal surveillance of CSOs.*

## State duty to protect:

CSOs in all countries can enjoy some protection against state and third party interference in their internal matters. However, the legislation on anti-money laundering and counter terrorism financing (AML/CTF) proves to be problematic in the region, particularly due to the lack of a risk-based approach, respect for human rights, clear guidance on its implementation and disproportionate sanctions for its violation. *The state authorities should not adopt measures that interfere in the internal affairs of CSOs by invoking AML/CTF obligations. Such measures should be based on a thorough risk assessment and strictly limited to specific organisations or a subset of the sector found at risk, rather than targeting the whole CSO sector. CSOs should not be limited in their ability to access banking services, use financial services to raise funds or transfer funds in and out of the country.*

## State support:

State support is insufficient in the region. State funding is typically limited and its allocation is non-transparent. The practice of contracting CSOs' services by the state is not very common. Tax treatment is unfavourable in some of the countries, while all of the countries reported insufficient tax benefits that do not stimulate individual and corporate philanthropy. Only one country, Ukraine, provides tax benefits for individual donors. Also, most of the countries do not have special policies that stimulate volunteering, although there are no significant restrictions related to it. *Therefore, state authorities should consider adopting or implementing rules for the distribution of public funding, frequently monitor the allocation and spending, publish all information online and increase the amount of funding available for CSO support. In addition, they should introduce more stimulating benefits and remove administrative barriers for donors and volunteers. Cross-border philanthropy should be subject to the same tax regulation as domestic philanthropy in order not to discriminate against international giving/foreign funding.*

## State-CSO cooperation:

Most of the countries in the region have policy document(s) on CSO development and cooperation with the state authorities. However, the implementation of these documents is often slow and CSOs are not sufficiently informed about the cooperation possibilities. Also, all countries in the region have some sort of consultative bodies established for dialogue and cooperation. However, not all of them have clear legal regulation or are not established based on a specific legal basis. *Depending on the country, the necessary measures should include the adoption of a strategic policy document on cooperation, implementation of the commitments included in such document(s), regular monitoring of the implementation of the action plans and training of public officials that are in charge of cooperation with CSOs. It is also critical to stop negative campaigns and statements by public officials against CSOs.*

## State entities established for cooperation with CSOs

**BELARUS:** public councils

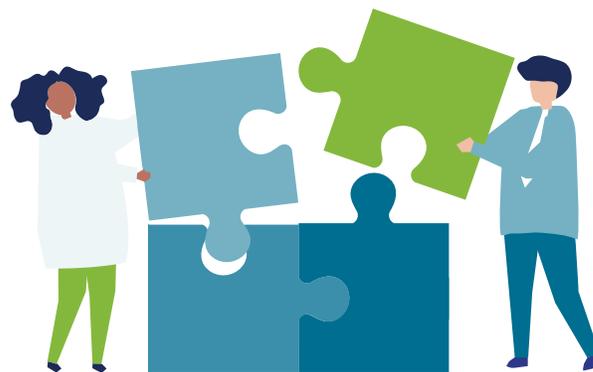
**AZERBAIJAN:** NGO Support Council, public councils

**ARMENIA:** public councils, support networks, joint working groups, CSO observer teams

**GEORGIA:** committees, working groups, councils

**MOLDOVA:** working groups, National Participation Council, National Council of NGOs

**UKRAINE:** public councils, advisory bodies



## Recommendations for the European Union

- 1. Use the findings and recommendations of the CSO Meter reports to support EU policies,** for example during the future revisions of the EU Country Roadmaps for Engagement with Civil Society;
- 2. Facilitate dialogue between CSOs and state authorities** by providing technical assistance to CSOs leading reform efforts, to national and local decision-makers to ensure participatory policy-making, and through the support of multi-stakeholder planning processes and structured dialogues;
- 3. Provide tailored and flexible financial support for civil society,** for example by support to unregistered groups and core funding to respond to emerging trends and threats;
- 4. Continue to monitor emerging trends and how they affect different CSO groups,** such as the spread of digital technologies and measures introduced in the name of transparency and to counter money laundering and terrorism financing;
- 5. Ensure that an enabling environment for civil society development is included in EU negotiations with governments.**

## Recommendations specific to each country

The country reports include a total of 273 recommendations in the 10 areas of the CSO Meter. We have listed some of the key recommendations below. In order to obtain a comprehensive picture on the ways in which the civil society environment could be improved in the EaP countries, please review the individual country reports at <https://csometer.info/>.

### ARMENIA

- ▶ Develop a strategic roadmap towards an enabling civil society environment;
- ▶ Apply an equitable approach to CSOs and businesses in registration, taxation and operation;
- ▶ Provide more state funding for CSOs and improve its effectiveness and transparency;
- ▶ Dismiss financial audit requirements for public organisations that receive funding from public resources; and
- ▶ Introduce an institutional mechanism to engage CSOs in policy implementation and monitoring.

### AZERBAIJAN

- ▶ Simplify registration for foreign funding;
- ▶ Simplify CSO registration;
- ▶ Reduce the reporting burden on CSOs;
- ▶ Increase consultation of the government with CSOs;
- ▶ Abolish the registration of service contracts;
- ▶ Reduce the amount of penalties for CSOs; and
- ▶ Improve the framework for receiving donations.

### BELARUS

- ▶ Abolish the obligatory payment for police and medical services as a requirement for organising a peaceful assembly;
- ▶ Abolish the ban on unregistered organisations;
- ▶ Introduce notification procedures for the registration of all forms of CSOs, without the abuse of administrative procedures;
- ▶ Extend CSOs' access to domestic and foreign funding (abolish a restrictive list of objectives for such funding, etc.);
- ▶ Abolish the ban for public associations to independently conduct economic activities; and
- ▶ Simplify the definition of a legal address and provide the possibility to locate CSOs at private houses.

## GEORGIA

- ▶ Improve the financial sustainability of CSOs: establish a regulatory framework of basic standards and principles in issuing state grants and enable municipalities to issue grants;
- ▶ Support the implementation of the “Estonian model” that was introduced to the Tax Code of Georgia;
- ▶ Support volunteerism by advocating for tax incentives for organisations that engage volunteers;
- ▶ Encourage public participation: make participation obligatory around new policies and draft laws and develop unified rules/standards on public participation;
- ▶ Revise the Code of Administrative Offences in order to eliminate unjustified intervention to the right of peaceful assembly;
- ▶ Improve the public image of CSOs; and
- ▶ Increase cooperation between CSOs and the media to fight disinformation and hate speech.

## MOLDOVA

- ▶ Pass the Law on Non-Commercial Organisations at its second reading without amendments that would affect the essence of the law;
- ▶ Provide transparency of the use of special means for wiretapping and surveillance (including of CSO representatives);
- ▶ Adopt a mechanism with uniform conditions and procedures for direct state funding of CSOs;
- ▶ Ensure transparent decision-making processes in all public institutions (central and local) by the appropriate use of legal public consultation mechanisms and procedures; and
- ▶ Simplify the CSO registration procedure in central and regional registration offices.

## UKRAINE

- ▶ Introduce tax incentives for corporate and individual philanthropy and exclude compensation for volunteering activities from the tax base;
- ▶ Introduce a single competitive mechanism for obtaining funds from the state and local budgets;
- ▶ Ensure proper investigation of attacks on journalists and civic activists;
- ▶ Ensure legal protection of rights and liabilities of organisers and participants in peaceful assemblies; and
- ▶ Introduce public consultation procedures at the legislative level. Develop electronic mechanisms for involving citizens in decision-making processes.