

# OVERVIEW OF KEY DEVELOPMENTS



European Center for  
Not-for-Profit Law



Funded by the European Union

## CIVIL SOCIETY ENVIRONMENT IN THE EASTERN PARTNERSHIP REGION January-May 2020

As part of its [CSO Meter initiative](#), ECNL and its partners in the Eastern Partnership (EaP) region monitor how laws and practices affect civic freedoms. The CSO Meter tool is based on international and European standards and practices and its development and the preparation of country reports has been supported by the input of hundreds of CSOs across the region. The present material provides an overview of the key developments related to civil society environment in the Eastern Partnership region during the period *1 January – 1 June 2020*. The aim of the overview is to highlight some general trends and their impact on fundamental rights in order to identify key concerns and support informed discussion on what could be done to safeguard civic space.

### I. GENERAL TRENDS AND DEVELOPMENTS

The first five months of 2020 have brought an ***unforeseen and dramatic change in the way civil society organizations operate***. The COVID-19 pandemic has been a real shock for civil society. Planned activities were put on hold. Organizations had to respond to urgent new needs. Work moved online. Suddenly opportunities that were a few inches away disappeared. Funding that seemed guaranteed was re-purposed for more urgent programs. In addition, ***all countries in the Eastern Partnership have seen limitations on civic freedoms***, ranging from freedom of movement to privacy. Several countries also decided to resort to derogations from the European Convention on Human Rights (ECHR).

At the same time, ***civil society had the chance to show its flexibility and innovation***. The crisis provided a window of opportunity for civil society to show why it is important and what its role and added value is. There are many examples how civil society has been at the forefront of the fight against the virus by providing services to the most vulnerable, collecting donations for doctors and equipment, informing people how to protect themselves, etc.

Based on the information collected, we can identify several trends and challenges that affected civil society:



This publication was produced with the financial support of the European Union. Its contents are the sole responsibility of ECNL and its partners, Transparency International Armenia; MG Consulting LLC; Assembly of Pro-Democratic NGOs in collaboration with Legal Transformation Center; Civil Society Institute; Promo-LEX Association; and the Ukrainian Center for Independent Political Research (UCIPR) and do not necessarily reflect the views of the European Union.

- 1. CIVIC FREEDOMS WERE LIMITED AND THE CHANGE IS HERE TO STAY.** Over the past five months the fundamental rights of freedom of association, peaceful assembly, access to funding and privacy were limited across the EaP region. By now it became clear that the pandemic and the new measures will have lasting effects on civil society. The restrictions, including the ones on civic space (described below) continue in many countries (even though there may be some relaxation). Even in this situation, if the tide with the virus turns, the strictest measures could be re-introduced and the social and economic impact of the crisis will continue in the following years after the end of the health crisis. Moreover, several measures unrelated to the pandemic were proposed that restrict CSO participation in policy-making, access to foreign funding, freedom of peaceful assembly and other rights.
- 2. LIMITED ACCESS TO DECISION-MAKING.** Most decisions have been taken urgently and without the possibility to consult<sup>1</sup>. In addition, some of the key decision-making institutions continued their work during the pandemic while at the same time CSOs had no or very difficult access to them (e.g. parliamentary committees conducted meetings online and representatives of CSOs had fewer opportunities to participate) and limited tools to influence the ongoing processes (e.g. assemblies have been banned or severely restricted). For example, in Armenia a number of legal drafts aiming to address the consequences of the pandemic have been adopted in an expedient manner, without any public discussion. Ongoing initiatives with government to improve enabling environment for CSOs were postponed for an unknown period. For example, in Georgia two OGP initiatives addressing CSO financial sustainability were suspended.
- 3. CSOs HAVE AN IMPORTANT ROLE TO PLAY.** CSOs played a watchdog role in many countries by questioning some of the measures and raising awareness about the need for proportionality and necessity. In Armenia, CSOs issued a statement against the limitation on the dissemination of information set by the government decision on state of emergency. As a result of the statements by local CSOs and international organizations the limitation was eventually abolished. On the other hand, CSOs have also shown their key role as social service providers, addressing the needs of the most vulnerable groups. CSOs play important role in disseminating information about precautions to avoid virus infection and countering fake news (e.g. [StopFake](#) in Ukraine, or [Stopfals](#) in Moldova). Civil society networks have been able to organize themselves fast and react to provide support and counter negative decisions. For example, in Belarus the largest aid collection campaign against COVID-19 was founded by human rights defenders on the basis of a volunteer network that, in previous years, collected assistance to victims of arbitrary arrests and journalists under threat. By 29<sup>th</sup> May #BYCOVID19 Volunteers have raised \$300K to help doctors in 145 hospitals in Belarus.

## II. KEY MEASURES AND IMPACT ON CIVIL SOCIETY

In response to the Covid-19 pandemic all countries except for Belarus introduced some form of state of emergency. As of the time of preparation of this material the state of emergency was lifted in some of the EaP countries (, Georgia, Moldova and Ukraine) but remains in place in Armenia where it was extended until 13 June 2020. In Azerbaijan the quarantine regime was extended until June 15. However, in many countries the state of emergency was replaced with another regime. For example, in Ukraine an “adaptive” quarantine was introduced from May 22<sup>2</sup> and in Moldova, the state of emergency was replaced by the [state of emergency in public](#)

[health](#) until 30 June. In Georgia the state of emergency was lifted but certain restrictions and limitations in social and economic life still remain (e.g., CSOs shall work online and only in case of critical need from office with limitation of 10 persons in office space, etc.).

ECNL provided an overview of the limitations introduced [at the beginning of the pandemic](#). Several limitations are still in place and new measures are being introduced in key areas affecting civil society environment. On the other hand, there are some good examples that can serve as an inspiration for others in the region.

### *Freedom of association*

In the shadow of the coronavirus and the election campaign, new norms unfavourable for CSOs were introduced in *Belarus*. The new law adopted on May 13th introduces [heavier reporting requirements](#) for public associations and foundations on AML/CTF, which does not comply with the risk-based approach<sup>5</sup>. In *Armenia*, the Parliament also adopted [amendments to the CSO legislation](#) to introduce reporting for all CSOs in March 2020. Based on the amendments, public organisations will be required to publish an annual activity report by May 30 each year. While some CSOs raised concerns about this new reporting requirement, the final version was an improvement over the initial proposals as it does not pose a risk to the right of privacy of donors and has been developed by a joint government-CSO working group. Last but not least, the *Moldovan* Parliament restarted the discussion for the adoption of the draft Law on non-commercial organizations in April 2020. The Expert Council on NGO Law of the Council of Europe and the Chair of the Conference of INGOs have [sent a joint statement](#) supporting the adoption of the current version of the Moldovan draft law.<sup>4</sup> On May 28 the Legal Committee of the Moldovan Parliament approved the draft law with minor revisions and it is expecting second reading in plenary session. The draft is a positive development as it will allow all individuals to establish and become members of an association, CSOs would be allowed to receive funding from all possible sources and express their opinion and take part in the public debate. However, the draft law was an opportunity for the President, the Prime Minister and affiliated media<sup>5</sup> to re-launch the negative rhetoric against CSOs financed from abroad and to reiterate that the current wording of the draft law is a threat to the statehood of the Republic of Moldova<sup>6</sup>.

### *Freedom of peaceful assembly*

During the pandemic all EaP countries introduced limitations on the freedom of peaceful assembly. *Georgia* is the only country in the region that lifted all restrictions by now; in the other countries the maximum number of people allowed to gather varies from 5 people (*Armenia*) to 50 people (*Moldova*). Additional limitations exist in some of the countries e.g. in *Moldova* assemblies are not allowed in spaces adjacent to public institutions, educational institutions, hospitals or other places at high risk of infection<sup>7</sup>. As of April 4 *Belarus* has imposed a [new burdensome procedure](#) for the initiators of public events which is not directly related to COVID - organizers must conclude agreements on the provision of services by the police, medical and cleaning services before submitting an application or notification of the event to local authorities<sup>8</sup>. In *Ukraine* the draft law No. 3291 “On the prohibition of peaceful assembly at the courts” proposes to restrict the right to peaceful assembly by forbidding to hold meetings, demonstrations, pickets, protests at a distance 50 meters and less to the premises and court buildings. If adopted, it would also be forbidden to post and display posters, banners, flags, political symbols, loudspeakers, sound reproducing and lighting equipment.

It is important that both the limitations and their implementation remain proportionate as the context of the pandemic changes, and they are lifted as soon as possible as part of a transition to more normal daily routines.<sup>9</sup>

## Freedom of expression and participation in policy-making

Several countries have imposed limitations that affect freedom of expression, access to information and participation in policy-making processes. Some of these measures were introduced as a response to the COVID-19 and were already lifted. For example, in *Armenia* the requirement to cite official sources on the current and new cases of coronavirus infections has been removed even though the state of emergency is still in force. In *Georgia*, compliance with the deadlines set by legislation for requests of information has been restored. However, in *Azerbaijan* the limitation on the spread of false information still remains in place. In *Belarus* there were cases of arresting investigative journalists and expelling a student from university who publicly urged students not to attend classes due to coronavirus. During emergency situations access to information is of crucial importance and state institutions should make extra efforts to proactively provide information to the general public. In addition, measures to fight disinformation should not limit freedom of expression and the possibility to provide alternative points of view.<sup>10</sup>

In addition to the above measures some governments also proposed or introduced additional limitations unrelated to the pandemic. For example, the *Armenian* government proposed amendments to the Law on Freedom of Information allowing denial to provide information “if it may have a negative effect on the environment” which was criticised by a number of CSOs<sup>11</sup>. In *Ukraine* four draft laws on lobbying were introduced in Parliament in February 2020. Most of those drafts contain provisions that would negatively affect the possibility of CSOs to engage in advocacy.

## Right to privacy

The use of mobile phone data to track the spread of COVID19 has been applied in three of the countries. The *Armenian* authorities have the right to collect information on the location and calls of the users of electronic communication services in order to identify the location, movements and the contact circles of potentially infected people during the period of state of emergency.<sup>12</sup> In *Ukraine* the mobile app “Diia” (Action), which is used to control person’s self-isolation continues to operate. In *Georgia* the Stop COVID app was promoted for voluntary use<sup>13</sup>. *Azerbaijan* has applied a different approach by limiting freedom of movement and introduced a permission system for leaving the place of residence by SMS. It has, however, been totally abolished as of May 15 in the parts of the country where it was still in place.

Using mobile phone data infringes on people’s right to privacy. Therefore, any data collection should be the the least intrusive way to identify people potentially exposed to a virus (for example, proximity between people can be obtained without necessarily geo-locating them). It should be specifically provided by law, necessary in a democratic society and for a legitimate objective. Any measure allowing collection of information should have a mechanism for oversight, guarantees for data storage and a sunset clause for destruction of data immediately when the emergency ends.<sup>14</sup>

## Access to funding

The crisis brought a great deal of appeals to people and companies for donations to fight the COVID. There was an enormous wave of solidarity and public support for supplying medical equipment, supporting doctors and nurses, etc. Examples include large market chains in *Azerbaijan* and some CSOs providing food assistance to the needy<sup>15</sup>; CSOs and volunteer groups in *Armenia* initiated distribution of food and essential supplies to vulnerable families, assistance to the elderly, volunteering activities to help medical institutions, etc.

On the other hand, COVID19 also affected a number of planned measures or led to re-purposing state funds allocated to CSOs. In *Georgia*, the current OGP plan contains two measures related to financing of civil society that have been frozen because of the pandemic (introduction of standards for public funding to CSOs and the possibility for local authorities to issue grants to CSOs). In *Ukraine* there was a limitation of public funding for CSOs from the state budget. For example, CSOs of people with disabilities should have received around 90 million UAN (3 million EUR) but now there is only 66 million UAN (2,2 million EUR) for them.

Besides, there have been **several legislative initiatives that may restrict access to foreign funding in the region**. Specifically, on May 25 the President of *Belarus* signed the Decree № 3 “On Foreign Gratuitous Aid,” which further tightened the provision of external support for CSOs: the list of possible goals for receiving external assistance has become smaller, the obligation to register foreign aid has been retained, and a 0.5% payment for the registration of assistance from the general grant amount has been introduced in addition to general taxes<sup>16</sup>. At the same time, the new procedure creates incentives for foreign donors to give financial support to state funds and agencies - this completely contradicts the interests of CSOs and the results of public discussion of this bill in the period 2017-2019. In *Ukraine* several draft laws [imposing restrictions on foreign-funded CSOs](#) were introduced in the Ukrainian Parliament. The changes are extremely negative. One of the drafts introduces the concept of “foreign agent”. Another one imposes severe limitations for CSOs that receive funding from abroad and all people associated with them in the past 10 years. In addition, a separate proposal would prohibit the members of CSOs who cooperated with foreign donors from serving on supervisory boards of state-owned enterprises and banks.

In *Moldova*, there is an ongoing political debate over the draft law on non-commercial organizations. The President and the Prime-minister promote prohibiting foreign funding for CSOs<sup>17</sup>, and the president warned that he will not promulgate the law in the current wording.

### **CSO-state cooperation and state support**

Despite the limited access to policy-making process **there have been some positive developments on CSO-state cooperation mechanisms** in several countries of the region. In *Azerbaijan*, President Aliyev signed a decree on approving the [2020-2022 National Action Plan \(NAP\)](#) on promotion of Open Government in February 2020. The NAP was developed in close participation with CSOs and individual experts and some 90% of recommendations of CSOs were taken into consideration. In *Moldova*, just before the start of the pandemic, [a new unit was created](#) within the State Chancellery of the Government of the Republic of Moldova to support the relations between the government and CSOs. This has been long-awaited by civil society and was one of the priorities of the Civil Society Development Strategy 2018-2020. **There are also legislative initiatives around volunteering** in several countries of the region. In May 2020, the Moldovan Government submitted to the Parliament an [amendment to the Law on volunteering](#), which will allow the Government to create the National Centre for Volunteering. In *Armenia*, the Ministry of Labour and Social Affairs posted a new draft Law on Volunteering for public consultation<sup>18</sup> at the end of May as a follow up to the discussions that started back in 2017.



### III. CIVIL SOCIETY REACTION

Despite the difficult situation around the pandemic, civil society has shown it is vibrant, flexible and up to the challenge. Among others, CSOs:

- **REACTED TO LIMITATIONS ON CIVIC FREEDOMS.** For example, Armenian CSOs released a number of statements on government decisions and legislative initiatives limiting mass media and social media publications, regulations on mobile phone tracking<sup>19</sup>, as well as other issues not linked with COVID-19 such as access to environmental information<sup>20</sup>, urban planning problems<sup>21</sup>, etc.
- **PROVIDED PROPOSALS TO THE GOVERNMENT TO IMPROVE THE ENVIRONMENT.** For example, in Moldova a group of CSOs released a [call](#) to the government on the implementation of urgent and additional measures for the penitentiary system to prevent the spread of COVID-19. In Belarus [1775 people signed a petition](#)<sup>22</sup> initiated by the Assembly of Pro-Democratic NGOs and Legal Transformation Center Lawtrend for removing restrictions on receiving foreign and domestic financial assistance for CSOs as this creates obstacles to obtaining funds for the fight against coronavirus.
- **COLLECTED FUNDS TO SUPPORT THE FIGHT AGAINST COVID-19.** In Belarus the campaign [#ByCovid19](#) helps Belarusian healthcare workers who are at the forefront of combatting COVID-19 in the country while in Ukraine the CSOs “Patients of Ukraine” launched a site and began raising funds to help doctors and medical institutions in the fight against coronavirus<sup>23</sup>.
- **ENGAGED VOLUNTEERS.** In Ukraine the Volunteer Center for Coronavirus Epidemic (<https://volunteer.country/covid19>) was created to help in the coronavirus period while in Armenia “Psychologists against Covid-19” initiative established an online platform to provide free psychological assistance and consulting and many CSOs such as Armenian Red Cross Society, Armenian Progressive Youth, Bari Mama mobilized dozens of volunteers to distribute food and provide assistance to elderly.

### IV. CONCLUSIONS AND RECOMMENDATIONS

There have been several developments that affected the civil society environment in the first five months of 2020. The pandemic has brought serious restrictions to fundamental rights and freedoms. It has also limited the possibility for CSO involvement in the adoption of laws affecting them. By now it is clear that some structural changes have already been made. Therefore, there is a need to take prompt measures to address them in a systemic manner to avoid that the limitations remain permanent or new restrictions are adopted in the shadow of the pandemic.

The pandemic also highlighted the importance of CSOs and the need to promote a more supportive environment for their operation. It stressed the necessity to support CSOs and improve their access to funding in order to alleviate the damage caused by COVID-19.

Despite the negative trends there have been some positive developments that can serve as good practice and inspiration across the region, however, there is a need to closely monitor how they will develop and get implemented in the future.

Therefore, it is crucial to continue monitoring in order to support evidence-based advocacy and take necessary steps for a more enabling environment. The CSO Meter local partners identified the following key priorities:

- **ARMENIA:** The practice of making urgent decisions without consulting CSOs and public should be eliminated as it may harm the already developed seeds of participatory policy-making culture. CSOs are left without traditional participation tools such as public hearings and discussions, assemblies and protest actions, activities of public councils, while online participation tools are limited and not accessible to everyone, especially on local level. Another issue that was covered by the CSO Meter and is timely during this period is taxation of CSO entrepreneurial activities. CSOs that have been involved in economic activities have suffered from the crisis during the pandemic time. This is one of the issues that should be reflected in the CSO Enabling Environment Roadmap to be jointly developed by CSOs and state institutions and to be based on the findings of the CSO Meter report.
- **AZERBAIJAN:** There is a need to create more favorable conditions for foreign donors to cooperate with local CSOs as well as to provide various financial and tax incentives for CSO. There is also an urgent need to ease the access and eliminate burdensome requirements to funding CSOs.
- **BELARUS:** The Belarusian government should eliminate existing restrictions for CSOs and not introduce new restrictive regulations or measures (especially for registration of CSOs and access to resources) and refrain from using violence and arbitrary detentions against political opposition, journalists, bloggers and CSOs during the summer election campaign. Authorities should consider the position of CSOs during the development of draft laws, including the law on volunteering planned for 2021 and the announced amendments to the presidential regulation on internal sponsor aid.
- **GEORGIA:** There is a need to continue the work on the priorities related to state funding for CSOs. The possibility to issue grants to CSOs should be extended for local authorities. The ambiguity in legislative framework and lack of uniformity in state funding practices shall be revised. For the purposes of clarity and uniformity of practices, standards for public funding for CSOs shall be introduced by the government.
- **MOLDOVA:** It is a priority to adopt the Law on Non-commercial organizations without amendments that could hinder CSOs activity. It is also necessary to adopt amendments to the Criminal Code and the Contravention Code regarding the regulation of crimes motivated by prejudice.
- **UKRAINE:** Members of parliament should refrain from supporting draft laws which aim to introduce limitations for CSOs receiving funding from foreign sources. MPs should also exclude CSO advocacy activities from the regulation of lobbying. The government should also introduce tax incentives for corporate and individual philanthropy that will be easy to use.

## ENDNOTES

1 For example, the Ordinance of the Council of Ministers No. 196 of April 3, 2020 in Belarus.

2 In the case of coronavirus deterioration in certain regions quarantine restrictions will be renewed.

3 <https://eurasiangroup.org/en/v-belarusi-vneseny-izmeneniya-v-zakon-o-merah-po-predotvrashheniyu-legalizacii-dohodov-poluchennyh-prestupnym-putem-finansirovaniya-terroristicheskoy-deyateli-nosti-i-finansirovaniya-rasprostraneniya-oruzhiya-massovogo-porazheniya>

4 <https://www.coe.int/en/web/ingo/-/call-to-the-parliament-of-moldova-to-pass-draft-law-no-109-on-non-commercial-organizations>

5 <https://a-tv.md/md/index.php?newsid=82225>, <https://a-tv.md/md/index.php?newsid=82229>

6 min. 29:55 <https://www.facebook.com/dodon.igor1/videos/361399428169462/>

<https://tv8.md/2020/06/01/chicu-despre-legea-cu-privire-la-ong-uri- ceea-ce-fac-unii-exponenti-ai-opozitiei-e-o-tentativa-de-a-lichida-r-moldova/>

7 Decision nr. 11 of the Extraordinary National Commission on Public Health (point 22) [https://gov.md/sites/default/files/proiect\\_hotarire\\_cnesp\\_nr.11\\_mai\\_2020\\_rev1.pdf](https://gov.md/sites/default/files/proiect_hotarire_cnesp_nr.11_mai_2020_rev1.pdf)

8 Ordinance of the Council of Ministers No. 196 of April 3, 2020. More information - <https://csometer.info/belarus-new-restrictions-on-freedom-of-assembly-in-the-shadow-of-%d1%81ovid-19/>

9 See our brief overview on protest in the time of pandemic here: <https://ecnl.org/wp-content/uploads/2020/04/Protest-in-a-Time-of-Pandemic.pdf>

10 See our Public Participation card here: <https://ecnl.org/keeping-civic-space-healthy-rights-card-on-public-participation-in-decision-making-during-covid-19/>

11 <https://eaparmenianews.wordpress.com/2020/04/06/%d5%a9%d5%b8%d5%b2%d5%a1%d6%80%d5%af%d5%b8%d6%82%d5%b4-302/>

12 Amendments to the law “On State of Emergency”: <https://www.arlis.am/DocumentView.aspx?docid=140752>.

13 <https://www.moh.gov.ge/ka/news/5060/STOP-COVID-aplikacia---xSirad-dasmuli-kiTxvebi----->

14 See more at: Council of Europe, Joint Statement on Contact Tracing by the Chair of the Committee of Convention 108 (Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data) and the CoE Data Protection Commissioner, 28 April 2020 (<https://rm.coe.int/covid19-joint-statement-28-april/16809e3fd7>, European Commission Recommendation of 8.4.2020 on a common Union toolbox for the use of technology and data to combat and exit from the COVID-19 crisis, in particular concerning mobile applications and the use of anonymised mobility data ([https://ec.europa.eu/info/sites/info/files/recommendation\\_on\\_apps\\_for\\_contact\\_tracing\\_4.pdf](https://ec.europa.eu/info/sites/info/files/recommendation_on_apps_for_contact_tracing_4.pdf)), European Data Protection Board of the European Union, Guidelines 04/2020 on the use of location data and contact tracing tools in the context of the COVID-19 outbreak, 21 April 2020 ([https://edpb.europa.eu/sites/edpb/files/files/file1/edpb\\_guidelines\\_20200420\\_contact\\_tracing\\_covid\\_with\\_annex\\_en.pdf](https://edpb.europa.eu/sites/edpb/files/files/file1/edpb_guidelines_20200420_contact_tracing_covid_with_annex_en.pdf))

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[http://www.qht.az/index.php?action=static\\_detail&static\\_id=39347](http://www.qht.az/index.php?action=static_detail&static_id=39347)

16 <https://www.lawtrend.org/freedom-of-association/izmeneniya-v-zakonodatelstve-ob-inostrannoj-bezvozmecznoj-pomoshhi>

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18 <https://www.e-draft.am/projects/2516/about>

19 <https://rm.coe.int/armenia-additional-info-emergency-restrictions-force-media-to-suppress/16809e1e21>

20 <https://eaparmenianews.wordpress.com/2020/04/16/issue-302/>

21 <https://transparency.am/en/statements/view/337>

22 [https://petitions.by/petitions/3807?fbclid=IwAR0u9xftL0S\\_Us3Xtyhft7gZY3Ki3fS\\_IIQ3HZErkAmZNTu60SuRPMpzzZc](https://petitions.by/petitions/3807?fbclid=IwAR0u9xftL0S_Us3Xtyhft7gZY3Ki3fS_IIQ3HZErkAmZNTu60SuRPMpzzZc)

23 [https://covid19.patients.org.ua/?fbclid=IwAR0ppuKt9oVh\\_VnwpivPUKNJsVDIpkDPIWXIgzOStg\\_Flc4HBSuKM10zy1c](https://covid19.patients.org.ua/?fbclid=IwAR0ppuKt9oVh_VnwpivPUKNJsVDIpkDPIWXIgzOStg_Flc4HBSuKM10zy1c)