

CSO METER

Assessing the civil society
environment in the
Eastern Partnership Countries

Ukraine Country Update

KYIV 2020

The bottom half of the cover features a large, abstract graphic design. It consists of several overlapping shapes: a large white semi-circle on the right, a smaller white rectangle on the left, and a green arrow-like shape pointing upwards and to the right. The background is a solid teal blue.



European Center for
Not-for-Profit Law



Funded by the European Union



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The Ukrainian Center for Independent Political Research (UCIPR) is a non-governmental and non-partisan think tank that develops democratic procedures in government policy, thus promoting the idea of the irreversibility of democratic change among the public. UCIPR studies socio-political processes in Ukraine and EU Member States, generates ideas and advocates proposals for good governance, carries out civic and political educational activities, and creates social communication platforms. UCIPR was founded at the dawn of Ukraine's independence by students who took part in the Revolution on Granite in 1990. Today, it is one of the leading Ukrainian institutions that systematically works on the strengthening of democracy, good governance, and the exercise of civil and political rights.

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How was this report developed?

This report was updated from the 2019 Report by the local partner of the CSO Meter project in Ukraine – UCIPR – following a joint methodology for all six Eastern Partnership countries. The process included data collection (through requests to public authorities, three focus groups, interviews, desktop research) and analysis of the collected information.

The development of the updated report was monitored by the Advisory Board consisting of representatives of key local stakeholders to ensure that its findings and recommendations reflect the overall situation in the country. The participants of the Advisory Board were: Andriichuk Stanislav (Head of the Plast Oblast Office, the Plast National Scouting Organisation); Halan Liubov (an expert on the rights to peaceful assembly and fair trial); Gutsal Iryna (Director of the Ukrainian Philanthropic Marketplace); Kebalo Volodymyr (Council of Europe Project Manager); Kuzmenko Vitalii (Executive Director of the Center for Open Research); Orlovsky Oleksiy (Democratic Practice Program Director at the Inter-

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September 2020.

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This publication was produced with the financial support of the European Union. Its contents are the sole responsibility of the authors and do not necessarily reflect the views of the European Union.

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ABBREVIATIONS

CMU	Cabinet of Ministers of Ukraine
CSO(s)	Civil Society Organisation(s) ¹
ECHR	European Court of Human Rights
EU	European Union
EUR	Euro
GDP	Gross Domestic Product
IMI	Institute of Mass Information
LGBT	Lesbian, gay, bisexual and transgender
LSGAs	Local self-government authorities
UAH	Ukrainian hryvnia
UBO	Ultimate beneficial owner
UTOG	Ukrainian Society of the Deaf (<i>Ukrayinske tovarystvo hlukhykh</i>)
UTOS	Ukrainian Association of the Blind (<i>Ukrayinske tovarystvo slipykh</i>)
VAT	Value-Added Tax

¹ In this report, references to “CSOs” include civil organisations and charitable organisations.

I. EXECUTIVE SUMMARY

Since June 2019, there have been no significant changes or progress in the legislative field or in practice regarding the legal environment for civil society organisations (CSOs) in Ukraine. There have been only occasional legislative improvements, such as the enhanced provisions of the Resolution of the Cabinet of Ministers of Ukraine (CMU) “On the Regulation of the Cabinet of Ministers of Ukraine” in regard to detailing the procedure for consulting with stakeholders; positive practices by self-government authorities, including adopted charters and public participation tools; and the introduction of partial contest-based public funding for CSOs for people with disabilities. The electronic contest procedure for CSOs within the framework of the contest for public funding from state and local budgets was also introduced. In addition, due to coronavirus prevention, some taxation provisions were temporarily improved: customs duties and VAT for goods intended for COVID-19 prevention were cancelled and the 4 per cent limitation for legal entities providing charitable aid and tax discount limitations for individuals providing CSOs with aid in preventing COVID-19 were removed.

Despite the above mentioned improvements in the legal environment for CSOs, the conditions for their operation became worse in practice. Journalists, activists and CSO representatives have been continuously attacked, and the investigations of those attacks show no results. Moreover, representatives of the authorities, particularly certain People’s Deputies (members of parliament), publicly state that activists and Euro-maidan participants must be held criminally liable. Meanwhile, the lustrated officials who served under former president Viktor Yanukovich, are once again holding public office.² In addition, it has become typical to initiate criminal proceedings and impose administrative sanctions for criticising President Volodymyr Zelenskyy.³

There is a tendency to register more and more draft laws which, if adopted, will freeze or impede the operation of CSOs participating in the decision-making process, limit their possibilities to receive funding from abroad and discriminate against such organisations by requiring additional reports, restricting activists from entering state service, etc.

COVID-19 anti-pandemic measures⁴ resulted in, *inter alia*, violations of the right to peaceful assembly (administrative sanctions for peaceful assemblies were imposed on

² Oleh Tatarov’s appointment as the Deputy Head of the Presidential Office liable for reforming law enforcement agencies is one example. He was the Deputy Head of the Central Investigation Department of the Ministry of Internal Affairs and, as such, exculpated and disguised massive crimes and human rights violations committed during the 2014 Revolution of Dignity.

³ Example of where criminal proceedings have been initiated for criticising President Zelenskyy: <https://bit.ly/30AQ118> and article ‘Zelenskyy and his “Servants” Prosecute Dissidents for Criticism’, mass media: <https://bit.ly/2PypUv6>.

⁴ This research analyses the impact of the introduced coronavirus prevention measures on CSOs only.

over ten persons), limitations on freedom of speech⁵ (journalists were not allowed to enter premises where collegiate authorities were holding their meetings), and threats to equality of constitutional rights and freedoms⁶ (some legal entities were allowed to work while others were forbidden from doing so).

These developments take place at a time when Crimea, and parts of the Luhansk and Donetsk Oblasts are still under occupation and human rights are systematically violated in these territories.⁷ In Ukraine as a whole, CSOs are oppressed, activists and independent journalists are prosecuted, different channels (media, open and closed channels and groups) have aggravated the situation by using hate speech towards CSOs that actively participate in reforming the country,⁸ two governments have been dismissed and certain ministers are often replaced; yet a controversial minister of internal affairs still holds office.

Therefore, to facilitate the development of civil society in Ukraine, we recommend that the authorities, particularly law enforcement agencies, the Verkhovna Rada (parliament) of Ukraine, the CMU and central executive authorities, set the following key priorities:

- ensure the appropriate and efficient investigation of attacks on journalists and civil activists, including those who protect the rights of women, LGBT communities, anti-corruption activists and others;
- avoid initiating and adopting draft laws intended to worsen the legal environment for CSOs;
- cancel administrative liability for violating the (non-existent) procedure for organising and holding peaceful assemblies (Article 185-1 of the Code of Administrative Offences of Ukraine);
- adopt legislation that would regulate when and how law enforcement agencies may resort to force during peaceful assemblies and oblige the representatives of law enforcement agencies participating in peaceful assemblies to have visible individual identification signs;
- implement a contest-based and transparent mechanism for funding CSOs from state and local budgets, and for monitoring and reporting on CSOs;

⁵ The Institute of Mass Information (IMI) recorded 31 violations of freedom of speech related to the quarantine: <https://bit.ly/3idvXS3>.

⁶ ZMINA News: <https://zmina.info/news/czogo-tyzhnya-ks-rozglyane-pytannya-zakonnosti-karantynu/>.

⁷ Serious human rights violations take place in the occupied territories. In this report, the authors focus their attention on territory currently controlled by Ukraine.

⁸ According to data received from the focus group.

- launch the automated humanitarian aid registration system; and
- adopt the National Strategy for Civil Society Development 2021–2025 and establish the Coordination Council for the facilitation of the development of civil society at the CMU.

II. KEY TRENDS

Basic data

Capital: Kyiv

Population: 42 million (2019)⁹

GDP per capita: USD 3,659.031 (2019)¹⁰

Freedom in the World Index: 62/100 (Partly Free) (2020)¹¹

World Press Freedom Index: 32.46 (2020)¹²

Number of CSOs: approx. 110,000 (2020)¹³

Number of CSOs per 10,000 citizens: 26 (2020)

CSO registration fee: None

CSO registration period: Civil organisation: three working days (maximum 15 working days); Charitable organisation: 24 hours

Key events and developments that have affected civil society since the last report

The Russian Federation continues to occupy Crimea and parts of Luhansk and Donetsk Oblasts. The President of Ukraine and the People's Deputies of Ukraine were elected following presidential and parliamentary elections. *Servant of the People*, the President's party, obtained 254 out of 450 seats in the Parliament. Votes from one political faction, for the first time in the history of Ukraine, could be enough to adopt laws. Accordingly, the public expected swift positive reforms, but these expectations were not met. Thus, the elected members from *Servant of the People* and the pro-Russian party *Opposition Platform – For Life* registered a number of draft laws that could compromise the position of CSOs in Ukraine. In particular, they propose (i) to prohibit for a period of five or ten years persons who worked at or were members of CSOs funded from abroad from working in the civil service; (ii) for CSOs funded from abroad, to submit additional reports that are discriminatory and disclose personal data; (iii) for heads of CSOs funded from abroad to be tested annually by lie detectors in regard to treason; and (iv) to prohibit meetings in front of court buildings, etc.¹⁴

⁹ The World Bank: <https://www.worldbank.org/en/country/ukraine/overview#1>.

¹⁰ The World Bank: <https://data.worldbank.org/indicator/NY.GDP.PCAP.CD?locations=UA>.

¹¹ Freedom House: <https://freedomhouse.org/country/ukraine/freedom-world/2020>.

¹² World Press Freedom Index: <https://rsf.org/en/ukraine>.

¹³ The number of civil organisations and charitable organisations registered in the Uniform State Register of Legal Entities, Individual Entrepreneurs and Public Organisations. This information was received via an access to public information request to the State Statistics Service of Ukraine.

¹⁴ Draft Law No. 3193-1, <https://bit.ly/30yAQpp>; Draft Law No. 3564, <https://bit.ly/3iezPCf>; Draft Law No. 3326, <https://bit.ly/31GI3ww>; Draft Law No. 3572, <https://bit.ly/2XSAlh1>; Draft Law No. 3291, <https://bit.ly/33GjHWh>.

However, it is worth mentioning that some law-making developments are positive for CSOs.¹⁵ But such draft laws are occasional and not systematic for facilitating the development of civil society.

In 2019 and 2020, the government was headed by Oleksiy Honcharuk holding the office of the Prime Minister for the shortest period of time – only 188 days. Moreover, after the government headed by Honcharuk had been dismissed, it was problematic to form the new government with Denys Shmyhal as Prime Minister and some ministries had no ministers for a long period of time (e.g., the Ministry of Culture and the Ministry of Education and Science) and some ministers resigned after only several months in office (e.g., the Minister of Health). Such staff turnover affects civil society as it prevents the establishment of stable relations for improving CSO-related legislation. The new government adopted, *inter alia*, the decision to liquidate the State Agency for Youth and Civil Society Development established by the previous government only around two months earlier. In addition, despite activists' requests and campaigns calling for the dismissal of Arsen Avakov, the Minister of Internal Affairs,¹⁶ as he had shown no results (e.g., no attacks on journalists, activists and CSO representatives had been investigated) for the last six years, the Parliament did not vote to dismiss him.

Important trends related to civil society

In March 2020, the CMU introduced an emergency regime¹⁷ containing a number of restrictions with some provisions contravening the Constitution of Ukraine¹⁸ and the following human rights:¹⁹ the right to peaceful assembly (administrative sanctions for peaceful assemblies were imposed on over ten persons), the right to freedom of speech²⁰ (journalists were not allowed to enter premises where collegiate authorities were holding their meetings), and equality of constitutional rights and freedoms²¹ (some legal entities were allowed to work while others were forbidden from doing so).

According to a public opinion poll carried out by the Ilko Kucheriv Democratic Initiatives Foundation from 8-20 August 2019, Ukraine still experienced a low level of civil

¹⁵ Draft Law No. 3718 "On basic principles of youth policy" improves the regulation of the youth sphere, including youth participation in social life and funding of youth and children's CSOs: <https://bit.ly/3ijDz5g>.

¹⁶ Four campaigns calling for the dismissal of Arsen Avakov to be held near the Verkhovna Rada of Ukraine during one day: <https://bit.ly/2XE0hNT>.

¹⁷ The CMU extended the quarantine to the end of October based on Decree of the CMU No. 641: <https://zakon.rada.gov.ua/laws/show/641-2020-%D0%BF#Text>. The introduction of quarantine before that had taken place based on Decree of the CMU No. 392.

¹⁸ ZMINA News: <https://zmina.info/news/czogo-tyzhnya-ks-rozglyane-pytannya-zakonnosti-karantynu/>.

¹⁹ On 28 August 2020, the Constitutional Court of Ukraine made a decision mentioning the prohibition of restriction of constitutional rights under bylaws (the Decree of the CMU No. 392). Simultaneously, the Court notes that the Decree of the CMU No. 392 (according to which the restriction of constitutional rights was established) expired during the trial. Therefore, the Constitutional Court cannot declare the Decree unconstitutional and closed the constitutional proceedings: <http://www.ccu.gov.ua/document/10-r2020>.

²⁰ The IMI recorded 31 violations of freedom of speech related to the quarantine: <https://bit.ly/3idvXS3>.

²¹ ZMINA News: <https://zmina.info/news/czogo-tyzhnya-ks-rozglyane-pytannya-zakonnosti-karantynu/>.

activities: only 7.5 per cent said that they were actively engaged in civil activities. During 2019, 9 per cent of citizens reported that they were engaged in voluntary activities, significantly lower than in 2018 (18 per cent) and lower than in 2017 (12 per cent).²² Meanwhile, levels of trust in CSOs among the public are increasing. Thus, Ukrainian citizens mostly trust voluntary organisations (68 per cent of respondents) and 46 per cent trust civil organizations.²³ Those figures increased in contrast to levels of 60 per cent and 45 per cent respectively in September 2017.

²² Public opinion poll carried out by the Ilko Kucheriv Democratic Initiatives Foundation: <https://bit.ly/2PyXBg1>.

²³ Public opinion poll carried out by the Razumkov Centre Sociological Service: <https://bit.ly/2DvGysF>.

III. KEY UPDATES

3.1 Freedom of Association

This area has experienced certain positive changes. In particular, the Constitutional Court recognised that the requirement for electronic declarations to be submitted by activists was not constitutional. A reporting form which civil organizations were required to submit to the statistics authorities was also cancelled. As of August 2020, any citizen willing to register CSOs and obtain non-profit status will be able to do so with the “single window” system. Meanwhile, the number of centres accepting documents for CSO registration decreased, but this did not significantly impact CSO activities.

Key changes:

- the Constitutional Court recognised that a requirement for anti-corruption activists, members and other staff of anti-corruption organisations to submit electronic declarations was not constitutional.²⁴
- the Report on Civil organisation Activities which civil organizations had to submit to the statistics authorities was cancelled.²⁵
- local free secondary legal aid centres no longer accept documents for CSO registration. This means that there are now 85 fewer centres where CSOs can submit documents to register their organisation.²⁶ However, it is worth noting that such centres did not actively participate in registering CSOs, and accepted documents for CSO registration within the pilot project;²⁷ thus, this has resulted in no significant changes.
- Since 17 August 2020, any citizen willing to register CSOs and obtain non-profit status will be able to do so with the “single window” system.²⁸ Previously, these processes were *de facto* separated, requiring the separate submission of documents to the judiciary and tax authorities.

The situation with other provisions remains without change. Thus, the majority of the population, including children, teenagers and foreigners, as well as civil servants, though with some practical obstacles, are free to establish CSOs, become the members of associations and participate in their activities. The state registration of a CSO is free of charge and takes a short period of time. The registration procedures are well defined. It is possible to register civil organizations online. However, it is not possible to register

²⁴ The Constitutional Court recognised that e-declarations of civil anti-corruption activists contravened the Constitution of Ukraine: <https://bit.ly/2PyyV7s>.

²⁵ Order of the State Statistics Service No. 458 dated 31 December 2019: <https://bit.ly/33Abhj6>.

²⁶ “NAIS” News: <https://bit.ly/3a4di8v>.

²⁷ Order “On launching the pilot project in the area of the state registration of civil organisations”: <https://bit.ly/2PyyYAA>.

²⁸ News from the Ministry of Justice: <https://bit.ly/2EYsTus>.

charitable organisations and civil organizations online if they are non-legal entities. CSOs may freely define their goals and areas of activity, but they are prohibited from carrying out activities contravening the Constitution. There are some examples when CSOs have been impeded in defining their areas of activity, but these examples are rare.

Responsibility assumed by a CSO for breaching legislation is similar to responsibility assumed by commercial companies. CSOs may be liquidated by a court, but it happens rarely in practice. Sanctions provided for nonprofit CSOs are well defined but may be applied without any prior notice. In general, the state does not create artificial barriers to CSO operation. Reporting procedures and forms are well defined, clear, and reports may be submitted online.

3.2 Equal Treatment

There have been no significant changes in this area.

Reporting requirements, inspection procedures and legal conditions of access to funding for CSOs are absolutely comparable with those for other economic entities. A fee paid by CSOs for the state registration of amendments to CSO information is significantly lower than the fee paid by other economic entities. Economic entities have better access to participation in public procurements as well as higher risks of additional tax inspections.

The majority of CSOs operate under equal conditions but those related to youth, children, national and patriotic concerns, veteran organisations and organisations of people with disabilities may obtain financial support from the state.

3.3 Access to Funding

There are no changes with regard to access to funding, and specifically funding from abroad. Meanwhile, the situation could worsen imminently as there are many draft laws which define CSOs as “foreign agents” and their associated persons may not enter the civil service or work at state-owned/public utility enterprises. It is also worth noting that some tax provisions for CSOs have been temporarily improved due to coronavirus prevention.

A number of draft laws²⁹ that would aggravate the situation of treating financial and material resources to CSOs from foreign sources in contrast to those from Ukrainian sources have been registered at the Verkhovna Rada, with the effect that:

- CSOs funded from abroad would need to register separately (and add the words “with foreign support” to their name);

²⁹ Draft Law No. 3193-1, <https://bit.ly/30yAQpp>; Draft Law No. 3564, <https://bit.ly/3iezPCf>; Draft Law No. 3326, <https://bit.ly/31GI3ww>; Draft Law No. 3572, <https://bit.ly/2XSah1>; Draft Law No. 3291, <https://bit.ly/33GjHWh>.

- CSOs funded from abroad would have to submit additional reports (including the publication of financial reports on their websites, in the open Register of Legal Entities and on the website of the Ministry of Justice);³⁰
- persons associated with CSOs funded from abroad would be prohibited from, *inter alia*, holding state offices, being members of supervisory boards, holding managerial offices at state-owned and public utility enterprises for five years (Draft Law No. 3564) or ten years (Draft Law No. 3326);
- heads of CSOs funded from abroad would be tested annually by lie detectors in regard to treason;
- individual entrepreneurs that cooperate with civil organizations would not be able to use the simplified taxation system (they would have to pay income tax) (Draft Law No. 3936);
- public authorities would not be able to receive funds from abroad, and other discriminatory provisions.

Meanwhile, legislation has been temporarily improved for the period of the quarantine regime. No VAT or import duty is due when importing/supplying goods for COVID-19 prevention.³¹ Thus, CSOs may import medicines and provide aid to their beneficiaries without paying VAT.

The situation with other provisions remains without change. There are problematic issues in legislation and in practice when importing humanitarian aid (e.g., a long procedure for recognising goods as humanitarian aid); some CSO funding mechanisms (non-money lotteries, charitable auctions, etc.) are barely regulated or not at all regulated by a specific law.

3.4 Freedom of Peaceful Assembly

The situation has partially deteriorated due to the COVID-19 quarantine,³² which has led to a number of restricting measures and higher criminal and administrative responsibility.³³ It is possible that freedom of peaceful assembly may be further restricted.

³⁰ "Receiving funds from abroad" means that funds are received from: (i) foreign donors; (ii) international donors; (iii) foreign legal entities; or (iv) foreign individuals.

³¹ Law of Ukraine "On amending some legislative acts of Ukraine aimed at preventing the emergence and spread of coronavirus disease (COVID-19)": <https://bit.ly/3fCv6lW>.

³² The CMU extended the quarantine to the end of October based on Decree of the CMU No. 641: <https://zakon.rada.gov.ua/laws/show/641-2020-%D0%BF#Text>. The introduction of quarantine before that had taken place based on Decree of the CMU No. 392.

³³ On 28 August 2020, the Constitutional Court of Ukraine made a decision mentioning the prohibition of restriction of constitutional rights under bylaws (the Decree of the CMU No. 392). Simultaneously, the Court notes that the Decree of the CMU No. 392 (according to which the restriction of constitutional rights was established) expired during the trial. Therefore, the Constitutional Court cannot declare the Decree unconstitutional and closed the constitutional proceedings: <http://www.ccu.gov.ua/document/10-r2020>.

After introducing the quarantine regime, the requirements for holding peaceful assemblies is quite ambiguous. In accordance with the CMU Resolution, all mass events involving more than ten participants are banned.³⁴ However, the law provides no definition of mass events or, to be more precise, whether mass events include peaceful assemblies. Some orders (regulatory acts) of the Ministry of Internal Affairs³⁵ equate mass events with peaceful assemblies, but resolutions of ministries are not deemed as laws and cannot regulate freedom of assembly.

The police state that peaceful assemblies are not banned, but limited to ten people.³⁶ Such an approach was revealed when sanctions were imposed on people participating in peaceful assemblies under the newly-introduced article of the Code of Administrative Offences³⁷ near the Presidential Office in Kyiv on 6 April 2020³⁸ and in Lviv on 1 May 2020,³⁹ the police issued nine administrative offence reports relating to participants in the open-ended protest called *Spring on Granite*. It is worth mentioning that such limitations happened rarely and the right to peaceful assembly was freely realised in Ukraine despite the COVID-19 quarantine regime⁴⁰ as Article 39 of the Constitution states that only courts may restrict the holding of peaceful assemblies.⁴¹

Article 44.3 (Breach of Quarantine Rules for People) is added to the Code of Administrative Offences, and the criminal responsibility⁴² for breaching rules and standards set to prevent epidemics and infectious diseases (Article 325 of the Criminal Code) is higher.

Negative developments can also be found in the amending of legislation. Thus, the Draft Law “On amending Article 6 of the Law of Ukraine ‘On the Judiciary and Status of Judges’” has been registered at the Parliament proposing to forbid the holding of gatherings and other types of peaceful assemblies within 50 metres of court buildings.⁴³

Local self-government authorities (LSGAs) have adopted decisions restricting freedom of assembly though they have no right to do so. For example, the Rivne City Council

³⁴ CMU Resolution 211 “On preventing the spread of COVID-19, the acute respiratory infection caused by SARS-CoV-2”: <https://zakon.rada.gov.ua/laws/show/211-2020-%D0%BF/ed20200311#Text>.

³⁵ Order of the Ministry of Internal Affairs No. 773 dated 10.08.2016; Order of the Ministry of Internal Affairs No. 1089 dated 24.12.2019: <https://bit.ly/3a5uHNLt>.

³⁶ “Freedom of Movement and Freedom of Peaceful Assembly within the Quarantine Regime: Theory and Practice”: <https://bit.ly/31mfWl>.

³⁷ Article 44-3 “Breach of Quarantine Rules for People”.

³⁸ With no Right to Protest: What Deceits Does Quarantine Cause and What to Do? <https://bit.ly/31qTF6C>; Only two protesters were found guilty by the court and they were given an “oral remark” <https://zmina.info/news/sud-ne-vyyavyv-porushennya-karantynu-z-boku-uchasnychi-vesny-na-graniti-yaryny-chornoguz/>.

³⁹ Article: Administrative Offense Report for Picketing the Verkhovna Rada: Does Peaceful Campaign Break Quarantine Regime? <https://bit.ly/33AWDrG>.

⁴⁰ The number of protests increases with their geography becoming wider”, Periodical Report: Typical human right violations by law enforcement agencies when introducing quarantine restrictions <https://bit.ly/30BEEje>.

⁴¹ This restriction may be imposed within a state of emergency or marital law.

⁴² One criminal proceeding under new Article 325 of the Criminal Code is recorded in Vinnytsia Oblast, Periodical Report: Typical human right violations by law enforcement agencies when introducing quarantine restrictions <https://bit.ly/2Py-jjRi>.

⁴³ The Draft Law “On amending Article 6 of the Law of Ukraine ‘On the Judiciary and Status of Judges’ on forbidding to hold gatherings near court buildings” <https://bit.ly/33GjHWh>.

adopted the decision “to forbid in Rivne the propagation of various types of deviant sexual behaviour, including the so-called equality marches, prides, queer culture festivals and so on that are held at leisure places for families and children”. The decision was cancelled by the courts.

The situation with other provisions remains unchanged. Law enforcement agencies continue⁴⁴ to impose administrative sanctions for “violating the procedure for organising and holding peaceful meetings, gatherings, street marches and demonstrations” (Article 185-1 of the Code of Administrative Offences), and disproportionately resort to force.⁴⁵ It is also worth noting that often the police does not ensure appropriate protection for participants in peaceful assemblies against radical attacks. Legislation does not require individual identification signs for police officers which results in the use of excessive force by police officers who escape punishment for it.

Problems often appear when organising and holding assemblies. In general, no restrictions on participants or organisers of peaceful assemblies are imposed. There are cases when representatives of extreme right groups have attacked peaceful assemblies.⁴⁶

3.5 Right to Participation in Decision-Making

In general, the overall environment has worsened due to actions of the CMU and other authorities (including access to commissions and sessions) toward CSOs. Meanwhile, we witness some positive aspects such as the enhanced provisions of the Resolution of the CMU “On the Regulation of the Cabinet of Ministers of Ukraine” (detailing the procedure for consulting with stakeholders), and positive practices of LSGAs in relation to the adoption of community charters and public participation tools.

The situation has significantly worsened at the level of central authorities. The CMU submits legal acts to government meetings for consideration without these being included in the preliminary agenda. Such practice almost excludes consultation with the public. During the quarantine regime, the Parliament does not allow journalists and CSO representatives to participate in its committees, and similarly LSGAs do not allow them to participate in commissions and sessions. Ministries less frequently establish and use working groups.⁴⁷

In some cases, authorities reply to requests for public information access that they cannot provide the requested information as they have no time to prepare the reply due to coronavirus prevention.⁴⁸ The State Statistics Service refused to provide data on death

⁴⁴ Two Persons Arrested for Meeting in Rivne <https://bit.ly/2XBOrFE>.

⁴⁵ Campaign during Hearing on Defining Interim Measures for Serhiy Sternenko <https://bit.ly/2DEizHy>.

⁴⁶ In Ukraine, LGBT-related events, activists, and peaceful assemblies have become more frequently attacked <https://zmina.info/news/v-ukrayini-staly-chastishe-napadaty-na-zahody-aktyvistiv-ta-myрни-zibrannya-povyazani-z-lgbt/>.

⁴⁷ It is worth noting that some ministries (e.g., the Ministry for Veteran Affairs) hold such meetings by using electronic communications, but this is usually an exception.

⁴⁸ Information received via interview.

rates in Ukraine, including death rates related to respiratory diseases, influenza and pneumonia in May 2020, specifying that it would provide such data after the quarantine.⁴⁹

Meanwhile, a number of draft laws exposing CSOs to risks have been registered:

- Draft Law 2228⁵⁰ which proposes to shorten the period of the publication of legal acts from twenty days to ten days before considering them. Such amendments could significantly complicate public participation in resolving socially-vital issues.⁵¹
- Four draft laws on lobbying⁵² that predominantly provide for limited possibilities for CSOs to further the interests of their members and participate in public consultations.⁵³
- Draft Law No. 3294 dated 30 March 2020⁵⁴ that proposes to stop considering, *inter alia*, requests for access to public information during the quarantine regime. The draft law was withdrawn on 5 April 2020.

Positive developments are as follows: on 26 April 2020, the CMU voted for the amendments to the Regulation of the CMU⁵⁵ detailing the procedure for consulting with stakeholders.

Municipalities actively develop and adopt community charters defining procedures for public participation, for example: public hearings, public examination, electronic petitions, budgets for public participation and so on. Recently, the cities of Ternopil, Drohobych, Mukachevo and Zhytomyr have adopted such decisions.⁵⁶

The situation with other provisions remains without change. Thus, CSO participation in the decision-making process has an appropriate legal and regulatory basis. Problems occur in practice as some public authorities and LSGAs do not comply with procedures for consulting with the public. Consultations with public and local authorities are held but, in this process, CSOs encounter various problems that hamper effective work.⁵⁷

⁴⁹ Opendatabot: <https://bit.ly/3gBUgbU>.

⁵⁰ Draft Law "On amending Article 15 of the Law of Ukraine 'On access to public information' as regards shortening the period of the publication of draft legal acts, decisions of LSGAs <https://bit.ly/2XEZso2>.

⁵¹ Article: *What Changes to Information Access Are Suggested: Review of Registered Draft Laws*: <https://bit.ly/3kjqwCX>.

⁵² Draft Law No. 3059-1 "On lobbying" dated 28.02.2020, <https://bit.ly/2XDT8Nk>; Draft Law No. 3059, "On the state registration of lobbying entities and lobbying in Ukraine" dated 11.02.2020, <https://bit.ly/3a7mHMy>; Draft Law No. 3059-2 "On legal and transparent regulation of lobbying activities" dated 02.03.2020, <https://bit.ly/3idAx2H>; Draft Law No. 3059-3 "On lobbying activities" dated 03.03.2020, <https://bit.ly/33AexuT>.

⁵³ Article from *Urainska Pravda*: <https://www.pravda.com.ua/columns/2020/05/28/7253583/>.

⁵⁴ The reference to the text of the Draft Law: http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=68503.

⁵⁵ Resolution of the CMU No. 950 "On approval of the Regulation of the CMU" dated 19 July 2007: <https://bit.ly/30ARr5q>.

⁵⁶ The Drohobych Charter: <https://bit.ly/3idTPEW> and the Zhytomyr Charter: <https://bit.ly/30wBehz>.

⁵⁷ In particular, no consultations on some legal acts are held with the public, CSO proposals are often not taken into account and access to information on consultations is complicated.

CSOs have access to information mostly through official websites and requests for public information access.

3.6 Freedom of Expression

Notwithstanding the favourable legislative base related to freedom of thought and freedom of expression, the situation has deteriorated in practice as evidenced by some developments, including (i) criminal proceedings for criticizing President Volodymyr Zelenskyy have been initiated; (ii) calls for violence on social networks; (iii) activists and journalists are continuously being attacked and such cases are not investigated;⁵⁸ (iv) activists receive doubtful notices of suspicion of crimes; and (v) there are calls for repealing the Law “On amnesty for Euromaidan participants” in order to hold Euromaidan activists criminally liable.

In general, the research carried out by the IMI shows 112 cases of violation of freedom of speech within the first six months of 2020.⁵⁹

There are phishing incidents with letters of journalists and CSOs that carry out public investigations or actively express public opinion,⁶⁰ and their accounts have been hacked. April 2020 witnessed eight such cases,⁶¹ and May 2020 witnessed nine cases.⁶² Meanwhile, pro-Russian activists and politicians post personal data (including passport numbers, identification codes, residential addresses, phone numbers) of, *inter alia*, journalists and CSO representatives in social networks.⁶³ Furthermore, there are calls for violent attacks on them.⁶⁴

2019 and 2020 witness the continuing tendency to intervene in freedom of mass media as well as freedom of thought and expression, including violent attacks and acts of intimidation. At least 83 human rights defenders and public activists faced harassment, threats, pressure or attacks. One third of the incidents in the previous year were related to activists protecting LGBT rights and gender equality, and other incidents were related to activists who participated in protests against illegal construction (15 incidents) and corruption (14 incidents).⁶⁵ The first six months of 2020 witnessed 48 incidents related to activist harassment. They were mainly related to corruption (nine incidents), the protection of LGBT rights (five incidents), and environmental protection (four incidents).⁶⁶

⁵⁸ The necessity to investigate attacks is specified in Recommendation CM/Rec(2018)11 of the Committee of Ministers to member States on the need to strengthen the protection and promotion of civil society space in Europe: <https://bit.ly/2C6Cy1h>.

⁵⁹ IMI Research: <https://bit.ly/2PwuNom>.

⁶⁰ Phishing is a scheme whereby hackers make users transfer confidential information, for example, passwords and social security numbers.

⁶¹ Digital threat monitoring in April 2020: <https://bit.ly/33zngER>.

⁶² Digital threat monitoring in May 2020: <https://bit.ly/3idz3p9>.

⁶³ Data provided by focus group participants and are available at: <https://bit.ly/31tjMtn>.

⁶⁴ Data provided by focus group participants and are available at: <https://bit.ly/31tjMtn>.

⁶⁵ Report on the Status of Human Rights Defenders and Public Activists in Ukraine in 2019: <https://bit.ly/3a51tPh>.

⁶⁶ Data from the Human Rights Center ZMINA: <https://bit.ly/3fHGsvm>.

There are incidents of limiting freedom of speech, for example the ruling of the Pechersk District Court in Kyiv dated 23 July 2019 within the criminal proceeding No. 757/38387/19-к on enforcing intellectual property rights by obliging a number of large Ukrainian internet providers to limit access to the whole platform and not only to pages containing potentially harmful material. Such limitations are disproportionate, and blocking an entire website is an extreme measure that is usually taken only when the website breaches legislation on a large scale. As of June 2020, only some of these websites had been unblocked.⁶⁷

Law enforcement agencies prosecute for the expression of opinions in different spheres. They initiated criminal proceedings and imposed administrative sanctions for criticizing President Volodymyr Zelenskyy, including in the form of a video e.g., for comparing him with the writer Yves Gandon (“*Gondon*” is an offensive word in Ukrainian so the writer’s name was used as a wordplay).⁶⁸

In addition, the part of society that has and actively defends pro-Ukrainian views are said to be under pressure. Thus, Iryna Venediktova, the Director of the State Bureau of Investigation, stated that it would be necessary to repeal the law on amnesty for the participants in the 2014 Revolution of Dignity.⁶⁹ Within several months in the Office of the Prosecutor General, Venediktova required investigators to serve a notice of suspicion in a criminal proceeding (homicide) to an activist who had been attacked three times and had acted in self-defence.⁷⁰

In the occupied Crimea,⁷¹ the occupation authorities launched a new wave of arrests of Crimean Tatars in July 2020.⁷² More generally, Russian forces conducted 23 searches, 48 detainments, and 52 interrogations during the first six months of 2020. The total number of arrests was 150, of which 28 are new arrests and 122 are prolonged detention periods.⁷³

On 15 May 2020, the President prolonged the period of blocking of Russian websites. A number of CSOs supporting the protection of Ukraine’s national information space against the destructive impact of an aggressive state called for bringing the existing sanctions mechanism relating to blocking the access to information resources (websites and social networks) in compliance with international human rights standards and the

⁶⁷ Article on the blocking of 17 websites: <https://bit.ly/3fEAhYY>.

⁶⁸ Example of the initiated criminal proceedings for a video criticizing the President: <https://bit.ly/30AQ1I8>; “Zelenskyy and his “Servants” Prosecute Dissidents for Criticism”: <https://bit.ly/2PypUv6>.

⁶⁹ News on perceived necessity to repeal the law on amnesty for the participants of the Revolution of Dignity: <https://bit.ly/3af6W6l>.

⁷⁰ News: <https://www.pravda.com.ua/news/2020/04/4/7246467/>. Also, there are other cases. For instance, three suspects were charged with blowing up Belarusian journalist Pavel Sheremet (the *Sheremet* case): <https://www.kyivpost.com/ukraine-politics/skepticism-high-as-sheremet-murder-case-moves-to-trial.html>.

⁷¹ The territory is not under the control of the Russian Federation.

⁷² Statement from human rights protection organisations: <https://bit.ly/2XDR8F3>.

⁷³ UNIAN Article: <https://bit.ly/2XCAZQ7>.

Constitution of Ukraine.⁷⁴ Meanwhile, the number of internet providers that do not block (or partially block) the banned websites increased: in March 2020, there were 20 such providers, and in May 2020, there were 34 providers.⁷⁵

While preventing COVID-19, no legal act was adopted to prevent false data from being distributed in Ukraine. At the same time in Ukraine, false data was distributed through Russian networks and, later, through the Ukrainian channels: 112.ua, newsone.ua, zik.ua, strana.ua and unian.ua.⁷⁶ The state took no active measures against this.

3.7 Right to Privacy

Right to privacy was affected negatively by the spread of coronavirus and by some legal acts adopted to prevent the spread of the virus in Ukraine, namely (i) when launching the Diia application, offences related to personal data distribution were likely to take place; and (ii) leaks of the personal data of Ukrainian citizens through Telegram channels.

When launching the Diia⁷⁷ application, a number of questions related to respect for human rights while processing personal data to track voluntary observation within the quarantine regime were addressed. On 22 April 2020, the CMU adopted the amendments to Resolution No. 211⁷⁸ specifying requirements for the use of the Act at Home application and the conditions of information exchange between authorities involved in anti-epidemic measures. The list of data to be processed without personal consent, *inter alia*, was defined.⁷⁹ Therefore, the Diia application complies with the legal requirements for processing the personal data of its users.

Personal data was disclosed through the following anonymous Telegram channels (some of which may be associated with pro-Russian groups): *Jocker*, *Tiemnyi Rytsar* (translated as *Dark Knight*), *Belyi Rytsar* (translated as *White Knight*), *Trubu Prorvalo* (translated as *Tube Bursts*), and *Sorosiata*.⁸⁰ Furthermore, the data of Ukrainian citizens was distributed illegally (data from approximately 26 million driving licenses was leaked) through the anonymous channel *UA Baza BOT*. In turn, law enforcement agencies blocked the channel and initiated criminal proceedings which are ongoing.⁸¹

⁷⁴ CSOs' call to the President: <https://bit.ly/2C6wC8v>.

⁷⁵ Research on website blocking: <https://bit.ly/30wLPci>.

⁷⁶ IMI Research: <https://bit.ly/2PwU5md>

⁷⁷ Diia ("Action") is a mobile application that was used to track compliance with the observation of quarantine rules. If people need to be under observation, they can choose either to be checked by the police or to install the app. Generally, Diia is a mobile application designed to provide Ukrainians with access to digital documents. They now have access to a driver's license and vehicle registration certificate on their smartphone, as well as a digital student ID and the ability to test a biometric passport and ID card.

⁷⁸ CMU Resolution 211 "On preventing the spread of COVID-19, the acute respiratory infection caused by SARS-CoV-2": <https://bit.ly/3khzRLs>.

⁷⁹ Research by the Laboratory of Digital Security: <https://bit.ly/3kIBlo0>.

⁸⁰ Article from *Ukrainska Pravda*: <https://www.pravda.com.ua/articles/2019/11/28/7233231/>.

⁸¹ News: <https://www.pravda.com.ua/news/2020/05/13/7251487/>.

The situation with other provisions remain without change. Thus, the right to privacy and data protection is widely protected by international and national legislation. At the same time, some aspects, such as web browsing and seizure of information, are not regulated and can result in offences or violations.

3.8 State Duty to Protect

The field has experienced no significant changes. However, due to amendments to legislation, CSOs have an additional obligation to disclose their ultimate beneficial owner (UBO).

On 6 December 2019, the Verkhovna Rada of Ukraine adopted a new Law of Ukraine “On preventing and counteracting legalisation (laundering) of the proceeds of crime, terrorist financing, and financing proliferation of weapons of mass destruction”.⁸² In accordance with the new legislation, provisions on specifying the UBOs of CSOs were amended. Meanwhile, there is legal uncertainty in relation to UBOs of CSOs (whether a non-profit CSO can have a UBO; how it is possible to define whether such a UBO exists or not, how a reason for his/her absence should be denoted) and it complicates the operation of CSOs.⁸³ Furthermore, sanctions for failure to provide, or to provide in a timely manner, information on UBOs amount to UAH 17,000-UAH 51,000 (approximately EUR 600-EUR 1,700).⁸⁴

It can be noted that the situation of using hate speech in regard to CSOs that actively participate in reforming the country has been aggravated to, *inter alia*, separate different groups of the population.

Thus, the new term “*sorosyati*”⁸⁵ has appeared; it is an attempt to introduce the notion of a foreign agent into legislation. Information regarding spreading the term “*sorosyati*” is spread by or can be received by mass media, People’s Deputies, and the Prosecutor General’s Office.⁸⁶ There are various Telegram channels, groups in social networks, including groups related to law enforcement agencies, which cultivate hate speech and the

⁸² The Law of Ukraine “On preventing and counteracting legalisation (laundering) of the proceeds of crime, terrorist financing, and financing proliferation of weapons of mass destruction”: <https://zakon.rada.gov.ua/laws/show/361-20>.

⁸³ Currently, the Ministry of Justice develops an explanatory note for CSOs on how UBOs should be defined.

⁸⁴ The information will have to be submitted within three months of the legal act approving the form and content of an ownership structure enters into force.

⁸⁵ It is a negative word that describes people who receive foreign funding for their work, are educated abroad, and work in international organisations. Often, Ukrainians are mostly frightened that these “sorosyats” will “steal everything” and cause irreparable damage to the state up to and including its destruction. Elena Shulyak, a People’s Deputy from “*Servant of the People*” said that “sorosyata” is a term that came to us from Russian political scientists, so, according to her “By playing with “sorosyats”, we are playing up to Russia”.

⁸⁶ Translation of ZIK advert: “After the dissolution of the Soviet Union, George Soros, the American billionaire, decided to own no more no less than entire countries and make them dependent. He especially succeeded in Ukraine by creating [Oleksiy Honcharuk’s photo appears] the whole network of his agents [Denys Maliuska’s photo appears] and fans of US money. Nowadays, they [photos of H. Novosad, T. Mylovanov, O. Markarova, A. Koboliev and V. Borodianskyy appear] occupy Ukraine, and its economy and GDP are decreased as never before. It cannot be suppressed [Artem Sytnyk’s photo appears]. It reeks of Soros - from everywhere! Join a marathon called “It Reeks of Soros” on Friday - during the whole day - on the ZIK TV channel”: https://mediarada.org.ua/wp-content/uploads/2020/05/Vysnovok_41_Thne-Sorosom.pdf.

viewpoint that reforms are carried out under external influence to undermine the sovereignty of Ukraine.⁸⁷

The situation with other provisions remains stable. If the rights of CSOs and associated persons are infringed, the procedure for protecting them has a lot of gaps (a complicated procedure for appealing against legal acts, no precautionary or collective claims on behalf of CSOs, high court expenses and so on). In practice, judgments from the European Court of Human Rights (ECHR) are implemented poorly.⁸⁸ Meanwhile, everyday CSO activities continue to face some problems related to obligatory financial monitoring and internal regulations applied by commercial banks.

3.9 State Support

There were both positive and negative developments, and the overall state of the environment for state support slightly improved. Public funding contests are introduced for CSOs relating to people with disabilities, and an electronic system of CSO state support contests is being introduced. Four per cent charitable aid limitation⁸⁹ is temporarily cancelled for legal entities and individuals (for the period of the COVID-19 quarantine regime). Meanwhile, expenses for CSO public funding are cut, and the procedure for leasing premises has become more complicated.

State support to CSOs has witnessed a number of positive changes at the legislative level, but it is too early to assess the practical implications of all legislative innovations.

The following positive developments are worth noting:

On 3 March 2020, the CMU adopted Resolution No. 166⁹⁰ introducing contest-based funding to CSOs relating to people with disabilities from the state budget. However, these amendments do not impact two organisations: the Ukrainian Society of the Deaf (UTOG) and the Ukrainian Association of the Blind (UTOS) that receive significant funding (approximately 80 per cent of the overall budget allocated to CSOs relating to people with disabilities). All organisations relating to people with disabilities, including local organisations, have access to the national funding contest.

On 1 June 2020, the CMU adopted Resolution No. 450⁹¹ improving the procedure for selecting CSOs as social services providers. For example, the payment period has been shortened from twenty days to ten days, and it is required that the individual identification code of a social service recipient be indicated in reports to promote transparency.

⁸⁷ Data provided by focus group participants.

⁸⁸ Ukraine must still implement 67 per cent of judgments of the ECHR: <http://www.einnetwork.org/ukraine-echr>. However, the judgments in which Ukraine must pay financial compensation are implemented (though with delay). Meanwhile, the judgments which require some actions to be taken are not implemented.

⁸⁹ When applying differences in taxes, an income tax payer has the right to reduce his/her financial result only by four per cent of income for the previous year when providing charitable aid.

⁹⁰ Resolution of the CMU No. 166, dated 3 March 2020: <https://bit.ly/3fHSN2E>.

⁹¹ Resolution of the CMU No. 450, dated 1 June 2020: <https://zakon.rada.gov.ua/laws/show/450-2020-%D0%BF#Text>.

Legislation has been temporarily improved for the period of the quarantine regime. In particular, (i) it is possible to include the total amount of charitable aid provided by individuals in a tax discount; (ii) the four per cent limitation⁹² is cancelled for income tax payers when providing charitable aid.⁹³

The restated Law of Ukraine “On public procurements” was adopted (entering into force on 19 April 2020)⁹⁴ imposing, *inter alia*, on CSOs (funded from state and local budgets) an obligation to make simplified procurement. The new procedure requires additional time for CSOs to adapt and complete training.

The following negative developments are worth noting:

As funds were redirected to the COVID-19 Response Fund, the CMU cut expenses for CSO public funding.⁹⁵ On 1 February 2020, a new Law of Ukraine “On lease of state-owned and public utility property”⁹⁶ entered into force excluding any possibility of leasing premises to CSOs on preferential terms and providing for leasing premises through auctions at market prices.⁹⁷ Such measures may result in reduced access by local CSOs to preferential state-owned or public utility premises to be leased as their offices.

Generally, support to CSOs in cash and in-kind from state and local budgets is underdeveloped and a limited number of CSOs have access to state funding. In most cases, support to CSOs from state and local budgets is still limited, discriminatory and ineffective. Open contests exist, but their procedures should be improved.

Tax legislation is favourable to CSOs and does not provide for burdensome reporting requirements. However, there is a need to improve the procedure of cancelling non-profit status. In general, temporary improvements in providing charitable aid by legal entities and individuals have not enhanced such a system. Therefore, it seems that existing tax incentives for legal entities and individuals providing charitable aid are not adequate, and the procedures for accessing the incentives significantly prevent CSOs from using them.

Ukrainian legislation does not impede involving volunteers, though it does not encourage it. Accommodation, meals and transport expenses incurred by volunteers are subject to an individual income tax if they are covered by a CSO using volunteers.

⁹² Income tax payers have a right to include the total amount.

⁹³ Law of Ukraine “On amending some legislative acts of Ukraine aimed at preventing the emergence and spread of coronavirus disease (COVID-19)”: <https://bit.ly/3gBN9Ah>.

⁹⁴ Law of Ukraine “On public procurement”: <https://zakon.rada.gov.ua/laws/show/922-19#Text>.

⁹⁵ For example, expenses for civil organizations relating to people with disabilities were reduced from UAH 90 million (approximately EUR 3 million) to UAH 66 million (approximately EUR 2.2 million). Expenses for civil organizations relating to veterans were reduced from UAH 18 million (EUR 600,000) to UAH 9 million (EUR 300,000).

⁹⁶ Law of Ukraine “On lease of state-owned and public utility property”: <https://bit.ly/2XBfb7j>.

⁹⁷ There is an obligatory auction exception for some types of organisations: (i) civil organizations in the area of culture and arts (including national artistic unions); (ii) religious organisations for religious customs and ceremonies; and (iii) civil organisations relating to veterans for equipping rehabilitation facilities for veterans.

3.10 State-CSO Co-operation

There were both positive and negative developments, but the overall state of the environment did not significantly change. In particular, advisory councils under the President of Ukraine have been established. Meanwhile, no performance results are available, so it cannot be said that these changes have improved the situation for CSOs.

Some advisory bodies under the President of Ukraine (including the Council for Freedom of Expression and Safety of Journalists and the Council of Volunteers) were established and held several meetings, though the purpose of their establishment has not yet been realised.

Annual governmental action plans on the implementation of the National Strategy for Civil Society Development 2016–2020 approved by the Decree of the President No. 68 are seeing significant delays in their adoption. For example, the Government adopted the 2020 Action Plan only in July 2020. Ministries and other executive authorities fulfil the governmental instructions on facilitating civil society development by halves. It is fair to say that CSO–government cooperation in facilitating civil society development was very limited during the monitoring period. Furthermore, the National Strategy for Civil Society Development will come to an end in 2020.

The CMU has already launched the process of designing the new National Strategy for Civil Society Development for the years 2021–2025. Different CSOs are actively included in this process.

The Coordination Council for Civil Society Development under the President of Ukraine has not held any meetings for several years.

The establishment and liquidation of the State Agency for Youth and Civil Society Development, having existed for just two months, can be used as an example of the lack of consistency in implementing, *inter alia*, youth and civil society policy.

Civil councils under executive authorities still demonstrate low efficiency and, unfortunately, their operating procedures are not expected to be improve in the near future.

There are no significant changes with regard to state-CSO co-operation, as facilitating civil society development is not a priority.

IV. KEY PRIORITIES

During the second six months of 2019 and the first six months of 2020, the legal environment for CSO activities witnessed no significant changes. Some issues were improved, including the introduction of CSO contest-based public funding procedures. Meanwhile, a number of draft laws threatening the legal environment for CSO activities were submitted to the Parliament for consideration. The Draft Law No. 3564 on CSOs as foreign agents⁹⁸ and the Draft Law No. 3193-1 on the lustration of civil activists⁹⁹ are examples.

The COVID-19 quarantine restrictions complicated access for the public to consultations and participation in decision-making processes at the national and local levels.

It is also worth noting that the lack of investigation into attacks on civil activists continues to be one of the largest threats to civil society development.

Besides, out of the key recommendations in the previous report most of them did not start to be implemented (11 out of 16), only 4 started to be implemented and only 1 was partially implemented.

Therefore, to facilitate the development of civil society in Ukraine, we recommend authorities, particularly law enforcement agencies, the Parliament, the Government and central executive authorities, set the following key priorities:

- ensure the appropriate and efficient investigation of attacks on journalists and civil activists, including those who protect the rights of women, LGBT communities, anti-corruption activists and others;
- avoid initiating draft laws intended to worsen the legal environment for CSOs;
- to cancel administrative responsibility for violating the non-existent procedure for organising and holding peaceful assemblies (Article 185-1 of the Code of Administrative Offences of Ukraine);
- adopt legislation that would regulate when and how law enforcement agencies may resort to force during peaceful assemblies and oblige the representatives of law enforcement agencies participating in peaceful assemblies to have visible individual identification signs;

⁹⁸ Draft Law “On amending some legislative acts of Ukraine” (on transparency of the activities of civil organisations receiving foreign assistance): http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=68977.

⁹⁹ Draft Law “On amending some legislative acts on ensuring citizens equal rights and opportunities to represent supervisory boards and management bodies of state unitary enterprises, economic companies and state-owned banks, and on forming such supervisory boards impartially, and on carrying out efficient activities by such supervisory boards in view of the national interests of Ukraine”: http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=68407.

- implement a contest-based and transparent mechanism for funding CSOs from state and local budgets, monitoring CSOs and reporting by CSOs;
- launch an automated humanitarian aid registration system; and
- adopt the National Strategy for Civil Society Development 2021–2025 and establish the Coordination Council for Civil Society Development under the CMU.

V. REFERENCES

LEGISLATION

- Law of Ukraine “On amending some legislative acts of Ukraine aimed at preventing the emergence and spread of coronavirus disease (COVID-19)”: <https://bit.ly/3fCv6IW>.
- Law of Ukraine “On public procurement”: <https://zakon.rada.gov.ua/laws/show/922-19#Text>.
- Law of Ukraine “On lease of state-owned and public utility property”: <https://bit.ly/2XBfb7j>.
- Law of Ukraine “On preventing and counteracting legalization (laundering) of the proceeds of crime, terrorist financing, and financing proliferation of weapons of mass destruction”: <https://zakon.rada.gov.ua/laws/show/361-20>.
- Draft Law “On amending some legislative acts on ensuring citizens equal rights and opportunities to represent supervisory boards and management bodies of state unitary enterprises, economic companies and state-owned banks, and on forming such supervisory boards impartially, and on carrying out efficient activities by such supervisory boards in view of the national interests of Ukraine” No. 3193-I: http://wi.ci.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=68407.
- Draft Law No. 3564 “On amending some legislative acts of Ukraine” (on transparency of the activities of civil organizations receiving foreign assistance) dated 29.05.2020: http://wi.ci.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=68977.
- Draft Law No. 3326 “On Amendments to the Law of Ukraine "On Purification of Power" (on prevention of external influence on the interests of the state)” dated 13.04.2020: <https://bit.ly/3iGI3wv>.
- Draft Law No. 3572 “On Amendments to Certain Laws of Ukraine on Prohibition of Financing of Authorities and Their Officials from Abroad and Prohibition of Senior Officials of the State to Have Citizenship (Citizenship) of a Foreign State” dated 02.06.2020: <https://bit.ly/2XSaIhI>.
- Draft Law No. 3291 “ On Amendments to Article 6 of the Law of Ukraine "On the Judiciary and the Status of Judges" on the Prohibition of Rallies Near Court Buildings” dated 30.03.2020: <https://bit.ly/33GjHWh>.

- Draft Law No. 3718 “On basic principles of youth policy” dated 23.06.2020: <https://bit.ly/3ijDz5g>.
- Draft Law No. 3193-1 „On Amendments to Certain Legislative Acts Concerning Ensuring Equal Rights and Opportunities for Citizens in Representation in Supervisory Boards and Governing Bodies of State Unitary Enterprises, Business Associations and State Banks and Fair Formation and Effective Operation of Such Supervisory Boards Taking Into National Interests of Ukraine” dated 17.03.2020: <https://bit.ly/3oyAQpp>.
- Draft Law No. 3564 “On Amendments to Certain Legislative Acts of Ukraine (Regarding Transparency of Activities of Public Associations with Foreign Support)” dated 29.05.2020: <https://bit.ly/3iezPCf>.
- Draft Law No. 3059-1 “On lobbying” dated 28.02.2020: <https://bit.ly/2XDT8Nk>.
- Draft Law No. 3059 “On the state registration of lobbying entities and lobbying in Ukraine” dated 11.02.2020: <https://bit.ly/3a7mHMy>.
- Draft Law № 3059-2 “On legal and transparent regulation of lobbying activities” dated 02.03.2020: <https://bit.ly/3idAx2H>.
- Draft Law No. 3059-3 “On lobbying activities” dated 03.03.2020: <https://bit.ly/33AexuT>.
- Draft Law No. 2228 “On amending Article 15 of the Law of Ukraine ‘On access to public information’ as regards shortening the period of the publication of draft legal acts, decisions of LSGAs dated 4.10.2019: <https://bit.ly/2XEZso2>.
- Draft Law No. 3294 “On Amendments to Clause 2 of Section II "Final Provisions" of the Law of Ukraine "On Amendments to Certain Legislative Acts of Ukraine Aimed at Preventing the Occurrence and Spread of Coronavirus Disease (COVID-19)" dated 30.03.2020: http://wi.ci.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=68503.
- Decree of the CMU No. 950 “On approval of the Regulation of the CMU” dated 19 July 2007: <https://bit.ly/30ARr5q>.
- Decree of the CMU No. 641 “On the establishment of quarantine and the introduction of enhanced anti-epidemic measures in the area with a significant spread of acute respiratory disease COVID-19 caused by coronavirus SARS-CoV-2” dated 22.04.2020: <https://zakon.rada.gov.ua/laws/show/641-2020-%Do%BF#Text>.
- Decree of the CMU No. 392 “On the establishment of quarantine for the purpose of prevention of distribution in the territory of Ukraine of an acute respiratory

disease COVID-19 caused by a coronavirus of SARS-CoV-2” dated 20.05.2020: <https://zakon.rada.gov.ua/laws/show/392-2020-%D0%BF#Text>.

- Decree of the CMU No. 211 “On preventing the spread of COVID-19, the acute respiratory infection caused by SARS-CoV-2” dated 11.03.2020: <https://zakon.rada.gov.ua/laws/show/211-2020-%D0%BF/ed20200311#Text>.
- Order of the Ministry of Internal Affairs No. 773 dated 10.08.2016: <https://zakon.rada.gov.ua/laws/show/z1223-16#Text>.
- Order of the Ministry of Internal Affairs No. 1089 dated 24.12.2019: <https://zakon.rada.gov.ua/laws/show/z0195-20#Text>.
- Order of the State Statistics Service No. 458 dated 31.12.2019: <https://bit.ly/33Abhj6>.
- Order of the Ministry of Justice “On launching the pilot project in the area of the state registration of civil organisations” dated 17.06.2016 No. 1717/5: <https://bit.ly/2PyyYAa>.
- Drohobych Charter: <https://bit.ly/3idTPEW>; and Zhytomyr Charter: <https://bit.ly/3owBehz>.
- Decree of the CMU “Some issues of providing financial support to public associations of persons with disabilities” No. 166 dated 3 March 2020: <https://bit.ly/3fHSN2E>.
- Decree of the CMU “Some issues of providing social services through social order” No. 450 dated 1 June 2020: <https://zakon.rada.gov.ua/laws/show/450-2020-%D0%BF#Text>.

RESEARCH & REPORTS

- IMI recorded 31 violations of freedom of speech related to the quarantine: <https://bit.ly/3idvXS3>.
- The World Bank: <https://www.worldbank.org/en/country/ukraine/overview#1>.
- The World Bank: <https://data.worldbank.org/indicator/NY.GDP.PCAP.CD?locations=UA>.
- Freedom House: <https://freedomhouse.org/country/ukraine/freedom-world/2020>
- The World Press Freedom Index: <https://rsf.org/en/ukraine>.
- Public opinion poll carried out by Ilko Kucheriv Democratic Initiatives foundation: <https://bit.ly/2PyXBgI>.

- Public opinion poll carried out by Razumkov Centre Sociological Service: <https://bit.ly/2DvGysF>.
- Periodical Report: Typical human right violations by law enforcement agencies when introducing quarantine restrictions: <https://bit.ly/3oBEEje>.
- Periodical Report: Typical human right violations by law enforcement agencies when introducing quarantine restrictions: <https://bit.ly/2PyjjRi>.
- The Recommendation CM/Rec(2018)11 of the Committee of Ministers to Member States on the need to strengthen the protection and promotion of the civil society space in Europe: <https://bit.ly/2C6CyIh>.
- IMI Research “112 cases of violations of freedom of speech were recorded in Ukraine in the first half of 2020”: <https://bit.ly/2PwuNom>.
- Digital threat monitoring in April 2020: <https://bit.ly/33znqER>.
- Digital threat monitoring in May 2020: <https://bit.ly/3idz3p9>.
- The Report on the Status of Human Right Defenders and Public Activists in Ukraine in 2019: <https://bit.ly/3a5tPh>.
- Data from the Human Rights Center ZMINA: <https://bit.ly/3fHGsvm>.
- Research on website blocking: <https://bit.ly/3owLPci>.
- IMI Research “Russia uses ‘American biological weapons’ against Ukraine”: <https://bit.ly/2PwU5md>.
- Research by the Laboratory of Digital Security: <https://bit.ly/3klBloo>.

PUBLIC STATEMENTS

- Statement from human rights protection organisations “Statement by human rights organisations regarding a new wave of arrests in the occupied Crimea”: <https://bit.ly/2XDR8F3>.
- CSOs’ call to the President: <https://bit.ly/2C6wC8v>.

COURT DECISIONS

- Decision of the Constitutional Court dated 06.07.2019: <https://bit.ly/2PyyV7s>.
- Decision of the Constitutional Court dated 28.08.2020: <http://www.ccu.gov.ua/document/10-r2020>.
- Implementation of 67 per cent of judgments of the European Court of Human Rights: <http://www.einnetwork.org/ukraine-echr>.

NEWS ARTICLES

- ZMINA News: <https://zmina.info/news/czogo-tyzhnya-ks-rozglyane-pytannya-zakonnosti-karantynu/>.
- Zelenskyy and his “Servants” Prosecute Dissidents for Criticism: <https://bit.ly/2PypUv6>.
- Example of the initiated criminal proceeding for the video criticizing the President: <https://bit.ly/3oAQI8>.
- Four campaigns requiring to dismiss Arsen Avakov will be held near the Verkhovna Rada of Ukraine during one day: <https://bit.ly/2XEohNT>.
- ZMINA News: <https://zmina.info/news/czogo-tyzhnya-ks-rozglyane-pytannya-zakonnosti-karantynu/>.
- News on termination of access for employees for registration of public formations: <https://bit.ly/3a4di8v>.
- The news from the Ministry of Justice: <https://bit.ly/2EYsTus>.
- Freedom of Movement and Freedom of Peaceful Assembly within Quarantine Regime: Theory and Practice: <https://bit.ly/3IImfWI>.
- With no Right to Protest: What Deceits Does Quarantine Cause and What to Do?: <https://bit.ly/3IqTF6C>.
- Only two protesters were found guilty by the court and they were given an “oral remark”: <https://zmina.info/news/sud-ne-vyyavyv-porushennya-karantynu-z-boku-uchasnyczy-vesny-na-graniti-yaryny-chornoguz/>.
- Administrative Offense Report for Picketing the Verkhovna Rada: Does Peaceful Campaign Break Quarantine Regime?: <https://bit.ly/33AWDrG>.
- Two Persons Arrested for Meeting in Rivne: <https://bit.ly/2XBorFE>.
- Campaign during Hearing on Defining Interim Measures for Serhiy Sternenko: <https://bit.ly/2DEizHy>.
- In Ukraine, LGBT-related events, activists, and peaceful assemblies have become more frequently attacked: <https://zmina.info/news/v-ukrayini-staly-chastishe-napadaty-na-zahody-aktyvistiv-ta-myрни-zibrannya-povyazani-z-lgbt/>.
- Open data bot <https://bit.ly/3gBUgbU>.
- What Changes to Information Access Are Suggested: Review of Registered Draft Laws: <https://bit.ly/3kjqwCX>.
- Urainska Pravda Lobbying bills pose a threat to democracy: <https://www.pravda.com.ua/columns/2020/05/28/7253583/>.

- IMI “After the news about Portnov, his phone number was posted on the network”: <https://bit.ly/3ItjMtn>.
- The article of Digital Security Lab Ukraine on blocking 17 websites: <https://bit.ly/3fEAhYY>.
- The News on necessity to repeal the law on amnesty for the participants of the Revolution of Dignity: <https://bit.ly/3af6W6l>.
- Ukrainska Pravda “Former Deputy Prosecutor General: Venediktov demanded that Sternenko be declared a suspect”: <https://www.pravda.com.ua/news/2020/04/4/7246467/>.
- UNIAN Article “48 detentions in six months: human rights activists spoke about the scale of repressions in Crimea against Crimean Tatars”: <https://bit.ly/2XCAZQ7>.
- *Ukrainska Pravda* “Dark Knight, Joker, Sorosyata. As anonymous Telegram channels launched a war of compromising”: <https://www.pravda.com.ua/articles/2019/11/28/7233231/>.
- *Ukrainska Pravda* “Leakage of personal data in Telegram: suspicion fell on officials of the Ministry of Internal Affairs and LCA”: <https://www.pravda.com.ua/news/2020/05/13/7251487/>
- Translation of ZIK advert: “After the dissolution of the Soviet Union, George Soros, the American billionaire, decided to own no more no less than entire countries and make them dependent. He especially succeeded in Ukraine by creating [Oleksiy Honcharuk’s photo appears] the whole network of his agents [Denys Maliuska’s photo appears] and fans of US money. Nowadays, they [photos of H. Novosad, T. Mylovanov, O. Markarova, A. Koboliev and V. Borodiansky appear] occupy Ukraine, and its economy and GDP are decreased as never before. It cannot be suppressed [Artem Sytnyk’s photo appears]. It reeks of Soros - from everywhere! Join a marathon called “It Reeks of Soros” on Friday - during the whole day - on the ZIK TV channel”: https://mediarada.org.ua/wp-content/uploads/2020/05/Vysnovok_41_Thne-Sorosom.pdf.

