

# CSO METER

Assessing the civil  
society environment in the  
Eastern Partnership countries

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**Armenia**

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# ABBREVIATIONS

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CSO	Civil Society Organisation
EU	European Union
FGD	Focus Group discussion
GDP	Gross Domestic Product
LGBT	Lesbian, gay, bisexual, transgender community
LLC	Limited Liability Company
LSGB	Local self-government body
NA	National Assembly
OSF	Open Society Foundations
RA	Republic of Armenia
SRC	State Revenue Committee
TIAC	Transparency International Anticorruption Center
UN	United Nations
USAID	United States Agency for International Development
VAT	Value Added Tax

# I. EXECUTIVE SUMMARY

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This report presents the findings of the pilot research conducted by CSO Meter methodology to assess enabling environment for CSOs. CSO Meter is a tool developed to assess the civil society environment in Eastern Partnership countries. It consists of a set of standards and indicators in 10 different areas that measure both law and practice. CSO Meter was developed within the framework of the “Monitoring Progress, Empowering Action” project funded by the European Union and implemented by the European Center for Not-for-Profit Law and a group of non-governmental organisations from the Eastern Partnership countries. Transparency International Anticorruption Center (TIAC) is the project partner in Armenia.

The research methods include analysis of legal acts, available researches and other documents and materials, focus group discussions (FGDs) with participation of CSOs, expert interviews and CSO online survey.

The report covers the most significant findings related to the indicators in 10 areas of CSO enabling environment. It also focuses on key problematic issues to serve as a starting point for further advocacy initiatives.

Armenia has overcome major political changes in 2018, when mass anti-governmental protests in April 2018 resulted in the election of a new prime minister and changes in governmental cabinet, further leading to early parliamentary elections. These political changes were referred to as “Velvet Revolution” and brought some improvements in freedom of speech, freedom of assembly, free elections and fight against corruption. CSOs and informal civic groups took an active role in 2018 protests and have been subsequently involved in consultation with the government and monitoring of snap parliamentary elections. Many civil society activists were further involved in the composition of the new government or elected as parliament members.

There are more than 5,000 CSOs in Armenia, including public organisations and foundations. According to expert assessments, about 20% of them are active. Financial sustainability is one of the main challenges faced by Armenian CSOs, as they are largely dependent on international donor funding, with limited local funding sources. CSOs’ organisational capacities are improving, and there is an increasing number of CSOs setting internal regulations and initiating strategic planning. Few CSOs demonstrate transparency in their practices, which contributes to the low level of trust toward CSOs by the general public. Another reason for the low level of trust are the widely disseminated stereotypes of CSOs as “grant-chasing” organisations following foreign agenda and harming traditional values.

Legal regulations in the area of freedom of association are generally favourable for CSOs. CSOs can operate without necessity to register, while the registration procedure is not expensive and takes up to 15 days. Online registration is not possible for CSOs, but since 2018 there is a possibility to deliver registration documentation through regional offices of the State Register. Some issues related to registration process are noted, including requirements to revise minor mistakes, such as typos, missing punctuation marks, or requirement to stand-

ardise the charter text in accordance with the exemplary sample of charter defined by the government. Among other issues, need for clarification of the scope of government oversight for CSOs has been identified in the area of Freedom of Association.

CSOs face discriminatory treatment in the registration process as well as when engaging in entrepreneurial activity in comparison to business entities. The registration fees are higher for CSOs, registration takes longer time, and tax regulation is less favourable for CSO entrepreneurial activities. On the other hand, CSOs face less tax checks and inspections as compared to companies. There is no explicit discrimination among the CSOs, though some CSOs note different treatment related to state funding practices and participation in decision making.

CSOs have access to various sources of funding, including public fundraising, international grants, private donations and state funding. Lack of state funding transparency and clear criteria have been highlighted among remaining challenges in this area. Although direct entrepreneurial activities have been allowed with legislative amendments, CSOs noted that there is a lack of sufficient incentives for starting economic activities. In addition, CSOs funded by specific international organisations face criticism and labelling by some groups of society.

As to the freedom of peaceful assembly, the legislation in this area is enabling and the practice has improved after the change in the government in May 2018. However, during the 2018 revolution and the preceding years many cases of police violence, pressure, unjustified interference, detention and unlawful use of police force and special means have been reported. The key problematic issues to consider in this area are obstacles for LGBT community representatives to exercise their right to peaceful assembly, discretionary inventions by police and insufficient efforts applied to effectively investigate police violations and hold police officers accountable.

There are a number of legal provisions and platforms for CSO participation in the decision-making process, including compulsory public discussion of draft laws, public councils adjunct to ministries, opportunities for public hearings, and joint working groups established in different areas. The Law on Local Self-Government also provides ample opportunities for public participation in community management. The problems in this area are related to the law enforcement and the effectiveness of public participation, as according to research participants, discussions and participatory platforms may be “formalistic” in nature.

Freedom of speech in Armenia does not face significant restrictions in present, unlike the pre-revolutionary period, when human rights defenders have been pressured for sharp criticisms. At the same time, public intolerance trends are observed, and the hate speech, which has significantly increased in social networks and spreads through the mass media, is not clearly regulated by law, nor adequately penalized. Issues in this area are reported also in terms of legislative regulations of the broadcast media and the constraint on the expression of opinion which is still observed in small communities.

The right to privacy is generally protected by law and in practice, although incidents of personal data leakage occur. Meanwhile, the protection from third-party attacks by the state is still faulty especially for organisations and human right defenders protecting the rights of LGBT representatives, women and religious minorities. Moreover, some government officials

themselves demonstrate instances of hate speech and discriminatory approach towards the above-mentioned groups.

CSOs receive regular financial support from state and community budgets. As a rule, the procedures and the results of funding are not transparent and publicly accessible. Currently, there is an ongoing process to improve transparency of state support and introduce competitive procedures. CSOs may receive some tax benefits for charitable projects, but in general the available tax benefits for CSOs are insufficient. CSOs do not face obstacles when using volunteer work, though there are no policies or regulations promoting volunteerism.

There is no specific strategy or policy on state-CSO cooperation. The Concept on CSO Institutional and Legislative Changes developed several years ago was partially implemented through legislative changes. The main institutional mechanisms of State-CSO cooperation are the Public Council and various councils adjunct to ministries and regional administrations, as well as sectoral working groups. The effectiveness of these bodies varies depending on the level of CSOs' pro-activeness and skills, on one side, and the attitude of responsible officials – on the other.

# II. INTRODUCTION

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## What is the CSO Meter?

The CSO Meter is a tool developed to support the regular and consistent monitoring and assessment of the environment in which civil society organizations (CSOs) operate in the Eastern Partnership countries. It consists of a set of standards and indicators in 10 different areas to measure both law and practice. It is based on a review of international standards and best regulatory practices.

The CSO Meter was developed through a highly consultative and collaborative process, supported by the European Center for Not-for-Profit Law (ECNL). It was co-drafted by a core group of local experts and consulted in three rounds with 807 CSOs across the region. A local partner in each of the six Eastern Partnership countries supported the process - Transparency International Anti-Corruption Center (Armenia); MG Consulting LLC (Azerbaijan); Assembly of Pro-Democratic NGOs in collaboration with Legal Transformation Center (Belarus); Civil Society Institute (Georgia); Promo-Lex Association (Moldova); Ukrainian Center for Independent Political Research (Ukraine).

## What are the key elements of an enabling environment for CSOs?

For the purposes of the tool, the term “CSO” is used to define voluntary self-governing bodies or organisations established to pursue the non-profit-making objectives of their founders or members. CSOs encompass bodies or organisations established both by individual persons (natural or legal) and by groups of such persons. They can be either membership or non-membership based. CSOs can be either informal bodies or organisations, which have legal personality. They may include, for example, associations, foundations, nonprofit companies and other forms that meet the above criteria. The CSO Meter does not consider the environment for political parties, religious organisations or trade unions.

The CSO Meter is split in two main parts:

- Fundamental rights and freedoms are essential for the existence of civil society and include: (1) freedom of association, (2) equal treatment, (3) access to funding, (4) freedom of peaceful assembly, (5) right to participation in decision-making, (6), freedom of expression, (7) right to privacy and (8) state duty to protect.
- Necessary conditions ensure additional support for the development of civil society (though their existence without fundamental rights and freedoms is not sufficient to ensure an enabling environment) and include: (1) state support and (2) state-CSO cooperation.

## How was the report developed?

The report is prepared by the local partner of the project in Armenia – Transparency International Anticorruption Center (TIAC), following a joint methodology for all six Eastern Part-



nership countries. The process has included data collection (through an online survey, focus groups, interviews, desktop research) and analysis of the collected information. In total, eight interviews were conducted with sector experts, four FGDs organised with participation of 33 regional and 8 Yerevan-based CSOs, and 94 answers collected through the online survey, including from 86 public organisations, 6 foundations and 2 informal initiatives.

The development of the report has been monitored by an Advisory Board that consists of representatives of key local stakeholders to ensure that the findings and recommendations reflect the overall situation in the country. The draft report was discussed on a public presentation in October 2019, where the main findings and recommendations were endorsed by participants and additional recommendations incorporated further in the final version of the report.

The report reviews the 30 standards that are part of the CSO Meter and provides recommendations for improvement in each of the 10 areas covered. It also outlines the most important findings and recommendations in the end. The recommendations could serve as a basis for future reforms that the government can undertake to improve the environment for civil society in Armenia.

The authors would like to extend their gratitude to all those who contributed to the report, including the representatives of European Center for Not-for-Profit Law, especially Eszter Hartay and Luben Panov, other project partners, participants of FGDs and interviewed experts, and members of the Advisory Group, in particular Lusine Hakobyan, Nune Pepanyan, Avetik Ishkhanyan and others.

# III. CONTEXT & BACKGROUND

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## Basic data about the country

Capital: Yerevan

Population: 2,951,776 (2018)<sup>1</sup>

GDP per capita: \$4,212.071 (2018)<sup>2</sup>

Freedom in the World: 44/100 (Partly Free)<sup>3</sup>

World Press Freedom Index: 28.98<sup>4</sup>

Number of CSOs: 4,374 public organizations, 1,134 foundations<sup>5</sup>

## Overall situation and state of civil society

Armenia experienced major political changes in 2018. Under constitutional amendments approved by referendum in late 2015, the country fully transformed from a semi-presidential republic to a parliamentary republic in April 2018, when president Serzh Sargsyan completed his term. The position of the leader of the executive branch of government was shifted to the prime minister, and Sargsyan was nominated to the post by the ruling Republican Party of Armenia as the only candidate.

Sargsyan's nomination and further election by the parliament sparked mass anti-government protests, which ultimately forced his resignation. Nikol Pashinyan, an opposition parliament member who led the protests, was elected prime minister in May 2018 and formed a government cabinet composed of representatives of various opposition parties. However, the Republican Party continued to dominate the parliament until December 2018, when snap elections were held.

The elections saw the My Step Alliance, led by the prime minister's party "Civil Contract", win over 70 % of vote. It remains the dominant fraction in parliament, along with "Bright Armenia" and "Prosperous Armenia" parties. The members of previous ruling coalition, Republican Party and Armenian Revolutionary Federation, participated in the elections but did not reach the necessary threshold of votes to be represented in parliament. The elections in December 2018 were assessed by international organisations and local civil society organisations as much freer and fairer than previous elections.

Before the political changes in 2018 – widely known as Velvet Revolution – it was reported that

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1 The World Bank, <https://data.worldbank.org/country/armenia>

2 The World Bank, <https://data.worldbank.org/country/armenia>

3 Freedom House, <https://freedomhouse.org/report/freedom-world/freedom-world-2018>

4 World Press Freedom Index, <https://rsf.org/en/ranking>

5 Statistics of organizations registered with MoJ State Registry of Legal Persons, 01.04.2019, <http://moj.am/legal/view/article/1224/>

democratic institutions were in decline in Armenia, mostly due to the consolidation of power by the authoritarian regime and a lack of political will to combat systemic corruption.<sup>6</sup> However, the situation improved after the revolution. Freedom House's Freedom in the World 2019 report cited improvements in a number of categories, including electoral processes, political pluralism and participation, and freedom of assembly.<sup>7</sup>

Freedom of the media was ranked as “not free” in Freedom House's Freedom of the Press 2017 report, while Internet freedom 2017 was ranked as “free”.<sup>8</sup> As of 2019, most independent and investigative journalists operate online, while print and broadcast outlets are affiliated with political or larger commercial interests.<sup>9</sup> Several incidents of police violence towards media representatives were reported in 2015-2016, as well as during the protests in 2018. Most of these incidents have yet to be properly investigated.

Freedom of expression is generally assessed as improved after the Velvet revolution, though some incidents of violations against media took place.<sup>10</sup> Freedom House's 2018 Freedom on the Net reports that Internet freedom in Armenia improved after citizens effectively used social media platforms, communication apps, and live streaming to engender political change in April 2018.<sup>11</sup> At the same time, hate speech has become widely spread in media, raising concerns of CSOs and media professionals.

There are more than 5,000 CSOs in Armenia, including public organisations and foundations. According to assessments, about 20% of them are active.<sup>12</sup> In 2017, important legislative amendments affecting public organizations entered into force. Positive changes included the removal of a ban on entrepreneurial activities; the allowance of more flexibility in governance structures; new regulations for volunteers; and a provision that allows environmental organisations to represent their constituents' interests on environmental issues in court.<sup>13</sup> CSOs and informal civic groups played an active role in the 2018 protests, as well as in subsequent consultations with the government and in monitoring snap parliamentary elections. Many civil society activists were further involved in the composition of the new government or elected as members of parliament.

According to USAID CSO Sustainability Index, financial sustainability of CSOs is the main challenge faced by Armenian CSOs, which are largely dependent on donor funding.<sup>14</sup> Local funding sources are limited, though in recent years CSOs have increasingly made use of business funding and crowdfunding.

CSOs' organisational capacities are steadily improving, mostly due to a number of donor-funded capacity building programs. More CSOs understand the necessity of internal regula-

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6 Nations in Transit 2018: Armenia, Freedom House

7 Freedom in the World 2019: Armenia, Freedom House

8 Freedom of the Press 2017: Armenia, Freedom House

9 Freedom in the World 2019: Armenia, Freedom House

10 2018 Annual Report of CPFE on the Situation with Freedom of Expression and Violations of Rights of Journalists and Media in Armenia, Committee to Protect Freedom of Expression, 2019

11 Freedom on the Net 2018: Armenia, Freedom House

12 2017 CSO Sustainability Index for Central and Eastern Europe and Eurasia, September 2018

13 RA Law on Public Organisations, 16.12.2016

14 2017 CSO Sustainability Index for Central and Eastern Europe and Eurasia, September 2018

tions and strategic management, though few apply these concepts in practice. CSOs' linkages with constituencies are limited, as are transparency practices.<sup>15</sup>

Generally, there is a low level of trust toward CSOs. According to the Caucasus Barometer survey conducted in 2017 by the Caucasus Research Resource Centers, only 5% of the public fully trusts CSOs, 18% somewhat trust them, and the percentage of those who rather or fully distrust CSOs is 29%.<sup>16</sup> Informal groups often enjoy more public trust due to their responsiveness to community needs, while registered CSOs are associated with the negative stereotypes of “grant-chasing” organisations.

A number of publications and discussions in social media blame CSOs for receiving grants from foreign agencies and following their agenda. CSOs working in gender issues, protecting the rights of sexual and religious minorities as well as dealing with victims of domestic violence are labelled as “harming traditional Armenian values” and often targeted by anti-CSO campaigns and hate speech.

More people have donated to CSOs in recent years, though the culture of giving is generally limited. CSOs and informal groups are most successful in public fundraising for causes like assistance to poor and vulnerable families, sick children, families of fallen soldiers, etc. The usage of crowdfunding platforms is on the rise. CSOs heavily rely on volunteers, especially in case of youth organisations and informal groups. According to the World Giving Index by the Charities Aid Foundation, 15% of surveyed Armenians reported giving donations, while 9% volunteered<sup>17</sup>; this is an improvement compared to 2017, when the percentages were 12% and 4% respectively.<sup>18</sup>

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15 2017 CSO Sustainability Index for Central and Eastern Europe and Eurasia, September 2018

16 Caucasus Barometer (CB): Public Perceptions on Political, Social, and Economic issues in the South Caucasus Countries. Some findings from the CRRC 2017 data, December 2017

17 CAF World Giving Index 2018, [https://www.cafonline.org/docs/default-source/about-us-publications/caf\\_wgi2018\\_report\\_webnopw\\_2379a\\_261018.pdf](https://www.cafonline.org/docs/default-source/about-us-publications/caf_wgi2018_report_webnopw_2379a_261018.pdf)

18 CAF World Giving Index 2017, [https://www.cafonline.org/docs/default-source/about-us-publications/cafworldgivingindex2017\\_2167a\\_web\\_210917.pdf?sfvrsn=ed1dac40\\_10](https://www.cafonline.org/docs/default-source/about-us-publications/cafworldgivingindex2017_2167a_web_210917.pdf?sfvrsn=ed1dac40_10)

# IV. KEY FINDINGS

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## ON ENABLING ENVIRONMENT

### 4.1 Freedom of Association

#### **STANDARD 1: EVERYONE CAN FREELY ESTABLISH, JOIN OR PARTICIPATE IN A CSO**

Anyone can establish an association in Armenia, with some limitations for minors which should be represented through their legal representatives. There is no necessity to register as a legal person and there are no restrictions to associate online.

According to the Armenian Constitution, everyone has the right to freedom of association with others. No one should be forced to become a member of any association. Freedom of association may be restricted only by law in order to protect the fundamental rights and freedoms of public security, public order, health or morals or the rights and liberties of others.<sup>19</sup>

The establishment and functioning of CSOs is regulated by the Civil Code of Armenia and the laws on public organisations and on foundations. The term “CSO” is not available in Armenian legislation: Instead, “non-governmental” and/or “non-profit organisations” are most commonly used terms. According to RA Civil Code<sup>20</sup>, non-profit (non-commercial) organisations include public associations and foundations.<sup>21</sup> At the same time, public associations include several types of organisations such as public organisations, religious organisations, political parties and trade unions. Since the CSO Meter does not cover the environment of political parties, religious organisations or trade unions, then for the purposes of this report, public organisations and foundations are the types of legal entities in Armenia that we will further refer to as “CSOs” having the status of a legal person.

According to the law, a public organisation can be established by two or more individuals or legal entities, while a foundation may be established by one person. Political parties, religious organisations, trade unions, as well as legal entities that are prohibited by law to establish an organisation or to become its member, may not be founders of a public organisation.<sup>22</sup> As to individuals, restrictions on membership are imposed for minors – persons under fourteen may become a member of a public organisation at their own will, based on the application of a legal representative, and persons aged fourteen to eighteen may become members of an organisation based on their own application with the written consent of their legal representative.<sup>23</sup> Similarly, minors can found an organisation through their legal representatives. There are no restrictions related to the citizenship, nationality or residency of founders.

CSOs in Armenia can also operate without a necessity to register and obtain a legal entity status. In that case they will not be able to open a bank account or make financial transactions

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19 Constitution of the Republic of Armenia, 05.07.1995, amended on 06.12.2015, article 45

20 RA Civil Code, 05.05.1998, Chapter 5: Legal Entities, § 4 Non-Commercial Organisations

21 Before the amendments to the Civil Code, adopted in December 2016 along with a new law “On Public Organisations”, there was another category of non-profit organisations – legal entity unions – defined in the Civil Code. After the amendments, which allowed legal entities to found public organisations along with physical persons, the legal entity unions were to be restructured into public organisations by February 2019 (RA Law on Amendments and Supplements in the RA Civil Code, 16.12.2016, article 6).

22 RA Law on Public Organisations, 16.12.2016, article 10

23 RA Law on Public Organisations, 16.12.2016, article 5

in the name of the organisation. There are many initiative groups formed and operating online, mostly through Facebook groups.

Participants of interviews, FGDs, and online survey respondents did not mention significant barriers to the establishment and membership of CSOs in practice. Some CSO representatives mentioned the restrictions on CSO membership or participation of public servants, police and military forces: although such restrictions are not envisaged by law, there is a certain constraint for them to enter a CSO. Other obstacles that are often mentioned by CSOs are related to the registration process and will be covered under the next standard.

#### **STANDARD 2: THE PROCEDURE TO REGISTER A CSO AS A LEGAL ENTITY IS CLEAR, SIMPLE, QUICK, AND INEXPENSIVE**

The registration procedure is clear and quick, although unjustified requirements for revising the CSO charter might take place. There is a need to improve knowledge and attitude of the staff of the regional offices of state register.

Registration of CSOs, as well as other legal entities in Armenia, is carried out by the State Register Agency of Legal Entities of the Ministry of Justice (hereinafter - the State Register). The state registration, re-registration of a public organisation, as well as state registration of the amendments to the Charter, or denial of registration thereof, shall be made not later than within 10 working days after receiving all the necessary documents, and the registration of foundations – no later than within fifteen days. The state fee paid for the registration of foundations and public organisations is 10,000 AMD (about 19 EUR) and for registration of amendments - 5,000 AMD (about 9.5 EUR). FGD participant CSO representatives were generally satisfied with the registration timeframe, whereas some CSO representatives find that the associated fees should be decreased.

The legislation clearly defines the list of documents required for registration and this list is also published on the government's Electronic Register website.<sup>24</sup> Although the law "On State Registration of Legal Entities, Separate Subdivisions of Legal Entities, Institutions and Private Entrepreneurs" provides for the possibility of submitting documents online, it is necessary to submit hard copy documents to register a CSO as online registration of CSOs is not accessible yet. Up to spring 2018, it was required to submit the documents directly at the State Register's office located in Yerevan, but since 2018 a possibility of delivering documentation through the regional offices is provided.

The grounds for registration denial are mostly related to cases when organisation's proposed name coincides with the name of another organisation or is not compliant with the law, when there is contradiction between the Charter and the law, and/or inconsistency between the submitted documents and the list envisaged by law. In practice, organisations may face denial due to minor mistakes, such as typos, missing punctuation marks, or non-standard text that differs from the exemplary sample of charter defined by the government. CSOs consider this excessive bureaucracy. It should be noted that the law does not provide an opportunity and timeframe for reviewing documents, particularly the charter, thus the organisation is simply denied registration for minor shortcomings and should apply again. However, the staff of the

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<sup>24</sup> Required documents, fees and timelines of state registration, Electronic Register of the Government of the Republic of Armenia, <https://www.e-register.am/am/docs/49>

State Register often communicates with the founders and urges them to submit modified version as soon as possible before registration deadline. As a rule, organisations usually make the required corrections to get the state registration as the judicial dispute can be time consuming and expensive.

Organisations registered in Yerevan note that they usually meet good service, willing and kind attitude, but this is not always the case in regional offices. Thus, one of the respondents noted that “the employees of the State Register office operating in the regions have not previously been involved with the registration of CSOs, lack necessary knowledge and are quite unfavourably towards this new responsibility.” Similar issues were also mentioned during FGDs by other regional CSO representatives. Moreover, in two regions, the State Register staff did not even know that they had the responsibility to organise the registration process and attempted to reject the CSO founders and send them to Yerevan office.

### **STANDARD 3. CSOS ARE FREE TO DETERMINE THEIR OBJECTIVES AND ACTIVITIES AND OPERATE BOTH WITHIN AND OUTSIDE THE COUNTRY IN WHICH THEY WERE ESTABLISHED**

CSOs are free to define any legitimate objectives, in case these objectives are not attributed to other types of associations such as religious organisations, trade unions, and political parties.

The objectives of CSOs are defined by the charter. According to the law, it is prohibited to set objectives which are associated with other types of associations<sup>25</sup>, for example religious organisations, trade unions or political parties.<sup>26</sup> No restrictions are envisaged by law regarding the area of operation. The law defines that organisations have a right for membership in international and foreign non-profit organisations, as well as having other international relations and establishing subdivisions in other countries.<sup>27</sup>

In the framework of this monitoring, no practical issues have been identified for this standard. Problems related to the objectives and types of activities are linked with public intolerance towards certain topics as well as demonstrations of hate speech that will be covered in the areas of Freedom of Expression and State Duty to Protect.

### **STANDARD 4. ANY SANCTIONS IMPOSED ARE CLEAR AND CONSISTENT WITH THE PRINCIPLE OF PROPORTIONALITY AND ARE THE LEAST INTRUSIVE MEANS TO ACHIEVE THE DESIRED OBJECTIVE**

Gradual sanctions are defined by law for CSOs not following legal requirements. In 2017, a special department within State Revenue Committee has been established for CSO oversight, but the scope and procedures of the oversight of CSO activities are not clear.

**RA Code on Administrative Offences envisages administrative liability for not publishing the**

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25 RA Law on Public Organisations, 16.12.2016, article 3

26 According to the RA Law on Political Parties, a political party is “a voluntary association of citizens formed for participation in referendums, elections of national and local government, and other forms of participation in public and state political life with purpose of contributing to the formation and expression of the people’s political will” (RA Constitutional Law on Political Parties, 16.12.2016, article 2). According to the RA Law on Freedom of Conscience and Religious Organisations, a religious organisation is “an association of citizens established for professing a common faith as well as for fulfilling other religious needs.” (RA Law on Freedom of Conscience and Religious Organisations, 17.06.1991, article 4). According to the RA Law on Trade Unions, a trade union organisation is a voluntary public association that unites workers “to represent their labour and related professional, economic, and social rights and interests and protect them in the labour relations” (RA Law on Trade Unions, 05.12.2000, article 2).

27 RA Law on Public Organisations, 16.12.2016, article 28



report by a public organisation or foundation when required by law, as well as for implementation of activities not consistent with the objectives set by the Charter of the public organisation.<sup>28</sup> In case the CSO does not comply with the requirement within 30 days after the warning has been legally prescribed, a penalty of 50 times the minimum wage (currently 50,000 AMD or about 95 EUR) is imposed. Failure to fulfil or improper fulfilment of the warning requirements within 30 days after the imposition of penalty entails another penalty in the amount of 200 times the minimum wage (currently 200,000 AMD or about 378 EUR). Should the requirement not be fulfilled after these steps, the organisation faces proceedings and the organisation's activities may be suspended by court decision. However, no cases of fines being imposed for implementation of activities not consistent with the objectives set by the Charter of the public organisation have been reported, while fines might be applied in cases of incompliance with reporting or taxation requirements.

Oversight of public organisations' and foundations' compliance with legal requirements is implemented by the authorised body, i.e. the RA State Revenue Committee (SRC). However, the oversight procedure and risk assessment criteria to be used by the authorized body are not specified by law. Before February 2017, SRC was responsible only for oversight of tax administration of public organisations and foundations, while the legal compliance monitoring was the function of the Ministry of Justice. At the same time, given the absence of practical oversight mechanisms and procedure, the oversight (beyond taxation and reporting requirements) was almost non-existent in practice.

According to the Law on Public Organisations, the grounds for suspension of a public organisation include a gross breach of law in the course of operation or serious violation of law or falsification during founding the organisation. The authorised body may file an action to the court with a request of compulsory liquidation of the organisation if the latter conducted activities aimed at overthrowing constitutional order or incitement of hatred or preached violence or war; or if the operation of the organisation has been suspended in accordance with law and during the period of suspension or within one year period, the grounds for suspension hasn't been eliminated.<sup>29</sup> The request for compulsory liquidation by the authorised body shall be reasoned by specifying a law or other legal act that was infringed and the evidence supporting the fact of the violation. The grounds for liquidation of foundations are larger and apart from the gross violations or frauds during the operation or in the course of establishment of the foundation, also include the insufficiency of foundation's property for the implementation of the operations, deviation from the goals set out in the charter, the impossibility of achieving foundation goals, endangering state security or public safety, public order, public health and morals, or the rights and liberties of others.<sup>30</sup> In all cases, suspension and dissolution of public organisations and foundations can take place only by a court decision.<sup>31</sup>

The interviewed experts and FGD participants did not recall cases of CSO suspension on the aforementioned grounds. In the event of non-submission of a report or inaccurate reporting, a warning is provided to review or publish the report within the set deadlines.

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28 RA Code on Administrative Offences, article 169.18, 169.26, 169.27

29 RA Law on Public Organisations , 16.12.2016, article 32

30 RA Law on Foundations, 26.12.2002, Article 34

31 Constitution of the Republic of Armenia, 05.07.1995, amended on 06.12.2015, article 45



## STANDARD 5. THE STATE DOES NOT INTERFERE IN THE INTERNAL AFFAIRS AND OPERATION OF CSOS

The law prohibits interference by state in the activities of public organisations, while foundations can be managed by state bodies and/or officials. The reporting requirements are also different: public organisations must provide annual report on activities only in case they have received support from public resources, while foundations are required to submit annual reports regardless sources of income.

According to the law, public organisations independently determine their organisational structure, subject of operations, its objectives and forms, while state bodies and local self-governance authorities and/or officials are prohibited from interfering or obstructing the legitimate activities of organisations.<sup>32</sup> The law on foundations does not specify about prohibition of state interference. It is noted that the foundation shall carry out its activities through its bodies: boards of trustees and managers.<sup>33</sup> There are foundations in Armenia established by the government, and/or government officials are members in the foundation board of trustees. Unlike public organisations, such a structure is legally possible and in this case, the foundation resembles a state non-commercial organisation, which is another type of legal entity founded by state bodies.

As noted above, the oversight of legal compliance for public organisations and foundations is reserved to the SRC.<sup>34</sup> For this purpose, a Department for Non-Profit Organisations' Oversight has been established within SRC, whose functions are described on the SRC's official website. It includes oversight over the adherence of non-profit organisations – foundations, public organisations and international or foreign divisions operating in Armenia – to the requirements of the laws on public organisations and foundations; notification of organisations in the manner and cases prescribed by law; review of reports and other documents; research and assessment of legal compliance.<sup>35</sup> In addition, as the main scope of SRC is tax and customs oversight and administration, it is also responsible for tax oversight for all legal entities.

According to the interviewed experts, there is a need to clarify the scope of oversight by the new SRC department, the criteria for inspection and application of sanctions, and the definition of “gross violations”, so that state control mechanisms are more understandable and predictable for CSOs. There have been no cases identified by the CSOs and FGD participants as to inspection of CSO's activities from legal perspective, except for financial control. However, in the context of the uncertainty of the new supervisory body's functions, there are concerns about possible arbitrariness and undue interference in case of inspections.

CSO reporting procedures and sample forms are clearly defined by SRC Chairperson's orders.<sup>36</sup> All foundations are required to publish annual reports about their activities on the official website for public notifications of the Republic of Armenia (azdarar.am). For report pub-

32 RA Law on Public Organisations, 16.12.2016, article 9

33 RA Law on Foundations, 26.12.2002, article 21

34 RA Law on Public Organisations, 16.12.2016, article 27; RA Law on Foundations, 26.12.2002, article 38

35 RA State Revenue Committee, Department for Non-Profit Organisations' Oversight, <http://www.petekamutner.am/asStructuralUnits.aspx?itn=asDivisions&suid=1019>

36 Order No.102-N of RA State Revenue Committee Chairman “On approving the sample form of the report on public organisations' activities, the procedure of its completion and submission, and on invalidating the order of the Chairman of RA State Revenue Committee No 59-N dated 13 February 2018”, 15.02.2019; Order No.58-N of RA State Revenue Committee Chairman “On approving foundations' report form, procedure of its completion, publication and submission to the RA Government State Revenue Committee”, 24.02.2017

lication, they should make necessary payments, and the amount depends on the number of characters in the report. Public organisations are obliged to publish such reports only if they received financial or in-kind support from public resources during the reporting year (means of state or local self-government bodies and bodies or legal entities that manage public resources). Moreover, starting the reporting year 2018, the report is published for free on the official website of the SRC. Some regional public organisations participating in FGDs mentioned that they received calls and reminders to submit reports from local tax inspectorates, although they did not have any income from public funds last year and therefore were not obliged to submit that report.

In October 2018, the SRC published draft amendments to the laws on public organisations and foundations. The amendments envisaged increasing the reporting requirements for both types of organisations, including the names of donors, as well as names of members, persons included in the governing bodies, staff and volunteers that have used organisation resources. Besides, the amendments aimed to make annual reporting compulsory for all public organisations regardless of whether they have received public funding or not.<sup>37</sup> Many CSOs criticized the draft laws, considering the proposed requirements as an unreasonable burden.<sup>38</sup> In February 2019, the SRC Chairperson released an order to set up a working group with involvement of relevant governmental agencies and CSOs to finalise the draft laws on making amendments and additions to the laws on foundations and on public organisations. The group had several meetings in March-June, and based on the outcomes of the meetings, in late August, new draft amendments to the laws on public organisations and foundations were posted for public discussion on the Unified Website for Publication of Legal Acts' Drafts, e-draft.am<sup>39</sup>. The new draft amendments did not include provisions on reporting on donors or beneficiaries but provided only general reporting requirements such as information on total amount of annual income and expenses, overview of implemented projects and information on entrepreneurial activities. At the same time, the requirement for all public organisations to report remained in the revised version. With the adoption of legislative changes, there is a risk of numerous cases of reporting requirement violations due to lack of awareness of public organisations. On the other hand, as a large number of registered organisations are not active, they may prefer to dissolve to avoid unnecessary paperwork, which will bring to a more realistic statistics of active CSOs. To this end, it will also be necessary to facilitate the process of CSO liquidation.

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37 Draft RA law "On Making Additions and Amendments to the Law of the Republic of Armenia" On Public Organisations," <https://www.e-draft.am/projects/1283> ; The draft law of the Republic of Armenia "On Making Amendments and Additions to the Law of the Republic of Armenia" On Foundations ,," <https://www.e-draft.am/projects/1282>

38 Statement-Standpoint to the SRC Chairman, 13November 2018, <https://ccd.armla.am/en/3650.html>, Statement on the Draft Amendments to the Law on Public Organizations proposed by the State Revenue Committee, Armenia, 16 November 2018, <https://transparency.am/hy/statements/view/305>

39 Draft Law of the Republic of Armenia "On Making Addition and Amendments to the Law of the Republic of Armenia" On Public Organisations," <https://www.e-draft.am/projects/1912/>; Draft Law of the Republic of Armenia "On Making Amendments and Additions to the Law of the Republic of Armenia" On Foundations ,," <https://www.e-draft.am/projects/1914>

## RECOMMENDATIONS FOR AREA 1

- Provide flexibility in CSO registration process by the State Register, minimizing charter revision requirements and excluding possible rejection due to minor mistakes, punctuation or non-standard formulations.
- Envisage an interim deadline for reviewing the documents and proposing a modified version, for example granting a 5-day deadline for response by the State Register, after which a certain time will be provided for submitting a revised version without additional payment.
- Facilitate administration of CSO registration, operation, and dissolution, including:
  - Enable online platform for registration and changes in CSO data.
  - Develop user-friendly guidelines on CSO registration, reporting, reorganisation and dissolution.
  - Establish partnership between the relevant SRC department and organisations specialised in CSO consulting in order to join efforts towards CSO awareness raising and support in reporting and other administrative issues.
- Clarify the procedures, scope, and standards of CSO oversight by state through adopting a relevant legal act that will be discussed with and accessible to CSOs.
- Raise the awareness of state register and tax inspection representatives, particularly employees of regional offices, on CSO-related legislative framework.

## 4.2 Equal treatment

### STANDARD 1. THE STATE TREATS ALL CSOS EQUITABLY WITH BUSINESS ENTITIES

The registration and some taxation regulations for business entities are more favourable than for CSOs; at the same time, CSOs are significantly less subjected to tax inspections in comparison to businesses.

Some legal regulations are less favourable for CSOs in comparison with business entities. In particular, in contrast to business entities, CSOs cannot register electronically, and the state fee for CSO registration is 10,000 AMD (about 19 EUR), while LLCs do not pay registration fees, and individual entrepreneurs pay 3,000 AMD (about 5.7 EUR). The maximal period for registration is also different: individual entrepreneurs are registered immediately on the day of application, business entities - within two days, and CSOs - within 10 or 15 days, depending on the legal form. As mentioned above, the charter of CSOs is thoroughly studied by the State Register, whereas the compliance of the business entity's charter with the requirements of the law is not reviewed; the State Register examines only the integrity of the submitted charter and availability of information prescribed by law.<sup>40</sup>

CSOs should pay profit tax if they carry out direct entrepreneurial activities. The profit tax rate for most of CSO-relevant economic activities is 20%.<sup>41</sup> CSOs should also charge value-added tax (VAT) on the goods and services they sell in case the annual turnover exceeded 58.35 million AMD (about 110,400 EUR) before June 29, 2019; however, this threshold was increased to 115 million AMD (about 219,300 EUR) with the Tax Code amendments adopted in June 2019. At the same time, the RA Tax Code provides for the possibility of a turnover tax for business entities (varying from 1.5 to 25% depending on type of activities, but in most cases – 5 percent)<sup>42</sup> in which case profit tax and VAT are not envisaged.<sup>43</sup>

In February 2017, the new law on public organisations entered into force, according to which public organisations are now allowed to conduct entrepreneurial activities. This means that public organisations as well as foundations can participate in public procurement tenders equally with business entities. However, public organisations appear to be in an unfavourable position compared to business entities when they participate in public procurement, as they are subject to mandatory audit in case they receive over 5 million AMD (9,460 EUR) annually from public funds. This means that when participating in public procurement tenders, these organisations should include the cost of the audit in the budget, which leads to the increase in the service cost and, consequently, to the lower competitiveness of the bidding.

Some FGD participants and online survey respondents indicate that local tax inspectorates are more reluctant to respond to the questions of CSO representatives as

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40 RA Law "On State Registration of Legal Entities, Separated Subdivisions of Legal Entities, Institutions and Individual Entrepreneurs", 03.04.2001, article 35

41 RA Tax Code, 04.10.2016, article 125

42 RA Tax Code, 04.10.2016, article 258

43 RA Tax Code, 04.10.2016, article 254

“they want to work with more profitable entities.” At the same time, CSOs are in more advantageous position in terms of inspections, as they are significantly less often inspected by the tax authorities than business entities. The main recommendations of CSOs in this context refer to the need for CSOs to have advantage or at least equal opportunities when conducting entrepreneurial activities.

## **STANDARD 2. THE STATE TREATS ALL CSOS EQUALLY WITH REGARD TO THEIR ESTABLISHMENT, REGISTRATION AND ACTIVITIES**

There are differences in registration timelines, reporting, and audit requirements of foundations and public organisations. Preferential treatment towards specific organisations is perceived by CSOs in regard to state funding and opportunities to participate in decision-making.

During the research conducted for the purpose of the current monitoring, there were no reports about biased treatment of CSOs in the process of registration or qualification of charitable projects. CSOs established by foreigners and/or receiving foreign funding are not subject to different treatment by law. The benefits provided by law for CSOs are related to VAT exemptions for procurement and transactions, and are established by the government and decisions of the relevant authorised bodies. At the same time, there is a different regulation for foundations and public organisations in terms of the maximum timeline for registration (15 and 10 days respectively) and accountability (the annual report is mandatory for all foundations and for only those public organisations which received funding from public sources). Besides, public organisations are required to carry out independent audit in case they received five million or more AMD (9,460 EUR) from public sources during the reporting year<sup>44</sup>, while foundations are required to do so if the value of their assets exceeds 10 million AMD (18,920 EUR).<sup>45</sup>

As examples of preferential treatment towards specific CSOs on unjustified grounds, the research participants indicated the discretionary selection of CSOs receiving state funding, as well as state bodies and local authorities sending invitations to conferences and events to CSOs on an arbitrary basis. The issues related to public funding will be covered in more detail under the area of State Support, while the involvement of CSOs in public consultations is covered in the Right to Participation in Decision-Making.

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44 RA Law on Public Organisations, 16.12.2016, article 26

45 RA Law on Foundations, 26.12.2002, article 39

## ECOMMENDATIONS FOR AREA 2

- Ensure the same terms and conditions of registration for CSOs as for business entities, particularly regarding the possibility of electronic registration, free registration, and timelines.
- Provide CSOs at least the same taxation conditions as in case of business entities, allowing them to operate under turnover tax regime in case of entrepreneurial activities.
- Provide equal opportunities for public organisations and foundations in the processes of registration, reporting, and audit, or duly justify the necessity of differentiation in the law.

## 4.3 Access to funding

### STANDARD 1. CSOS ARE FREE TO SEEK, RECEIVE AND USE FINANCIAL AND MATERIAL RESOURCES FOR THE PURSUIT OF THEIR OBJECTIVES

CSOs do not face limitations when seeking resources through various means of fundraising, though practical challenges in funding diversification persist.

Legislation provides a wide range of opportunities for CSOs to receive funding from different sources. In particular, the law on public organisations states that sources of organisation's property can be investments and fees by the organisation's members, funds received from entrepreneurial activity, funds generated from other organisations established by the organisation or with participation of the organisation, receipts from the state budget, donations, including grants, collected donations and other means not prohibited by law.<sup>46</sup> Prior to adoption of the new law on public organisations, which entered into force on 2 February 2017, public organisations were not allowed to directly engage in business activities.

According to the law on foundations, sources of foundation's property include the investments of the founder, donations and gifts of individuals and legal entities, including donations and gifts of foreign citizens, legal entities, international organisations, receipts from the state budget, grants, resources generated from entrepreneurial activity of business entities established by the foundation or with the foundation's participation, collected funds and other means not prohibited by law.<sup>47</sup> In case of receiving funding from public assets, public organisations are obliged to publish an annual activity report on the website envisaged by the state.<sup>48</sup> If these funds exceed 5 million AMD (about 9,460 EUR) within the year, the organisations should also publish an independent auditor's report.<sup>49</sup> Foundations are required to conduct an independent audit and publish relevant statement if their assets exceed 10 million AMD (about 18,920 EUR).<sup>50</sup> Audit implementation is problematic for many CSOs as it creates additional financial burden, especially when CSOs work within grant programs and do not have any unallocated funds.

In practice, CSOs do not face obstacles from the government in search of resources through various means of fundraising, including public fundraising or crowdfunding, or when they receive money or in-kind donations from any legal source. Traditionally, CSOs in Armenia are largely dependent on international grants, while public fundraising, crowdfunding, and business contributions constitute small share of CSO income. At the same time, an increasing use of online crowdfunding platforms and other alternative sources of funding has been noted.<sup>51</sup> Some difficulties are pointed out regarding entrepreneurial activities, as current legislation does not provide a favourable tax environment for CSOs to engage in entrepreneurship, and according to some respondent CSOs, available legal and regulatory frameworks are complex and overburdening. Some of the FGD participant CSOs mentioned that although they had been allowed to engage in direct entrepreneurial activities, many prefer to establish a sepa-

46 RA Law Public Organisations, 16.12.2016, article 7

47 RA Law on Foundations, 26.12.2002, article 8

48 RA Law Public Organisations, 16.12.2016, article 24

49 RA Law Public Organisations, 16.12.2016, article 26

50 RA Law on Foundations, 26.12.2002, article 39

51 Central and Eastern Europe and Eurasia 2017 CSO Sustainability Index, 2018 September



rate company to avoid tax administration problems (see considerations on differences in taxation mechanisms for CSOs and business entities under Equal Treatment).

## **STANDARD 2. THERE IS NO DISTINCTION IN THE TREATMENT OF FINANCIAL AND MATERIAL RESOURCES FROM FOREIGN AND INTERNATIONAL SOURCES COMPARED TO DOMESTIC ONES**

CSOs are free to seek and receive foreign funding, and do not face any restrictions by the government in doing so. However, the issue of stigmatisation of foreign-funded CSOs by the public has gained significance especially in recent years.

The Armenian legislation does not contain provisions that restrict or specify procedures for CSOs to receive or use foreign funding or in-kind assistance, or for donors to provide funding or send it abroad. There is no difference between local and international grants, donations, and membership fees. CSOs may be exempted from the VAT when purchasing goods or services under specific grant projects on the basis of special intergovernmental agreements, or by the decision of the relevant authorised body.

Practical issues related to international funding are instances of stigmatizing CSOs funded by international donors demonstrated by some groups of society. In a number of social media publications and discussions, CSOs are accused of receiving grants from foreign agencies and following an external agenda. In particular, the most vulnerable in these terms are CSOs that have received money from the Open Society Foundations (OSF), founded by George Soros. The “Sorosian” label has attained particularly negative accentuation in recent years in various publications and speeches by public and private media, as well as in social media. Moreover, organisations funded by OSF were stigmatized by some state officials, in particular for allegedly “pursuing a foreign agenda”, “advocating homosexuality” and purposefully “destroying Armenian traditional values and the Armenian family”.<sup>52</sup> In recent months, the campaign against OSF has reached dramatic levels, up to protests organised in the front of OSF Armenian office in June 2019, accompanied by threats to the office staff and hate speech.<sup>53</sup> Many rights defender CSOs have issued a statement calling on law enforcement agencies to take action to protect the public order, to ensure free and safe movement of office employees and visitors.<sup>54</sup> It should be noted that these protests had certain political connotation. According to experts, supporters of the former government built on the attitudes of the most traditional social groups to start such campaign as a means of fighting against the current authorities who were “patronizing the degraded values.”

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52 Soros does not pursue pro-Armenian activities in Armenia, there is no second opinion: Gevorg Petrosyan, Politik.am, 27.05.2019, <http://politik.am/sorosy-hayastanum-hayanpast-gortsuneutyun-chi-tsavalum-erkrord-kartsiq-chka-gevorg-petrosyan>; Why Soros' interest in Armenia has woken up? Armtimes.com, 11.02.2019, <https://armtimes.com/hy/article/154262>; Eurasia Partnership, Soros, odds and ends can't prevent your flourishing; Sh. Petrosyan (video), Armtimes.com, 16.01.2018, <https://armtimes.com/hy/article/129028>

53 “Soros targeted by supporters of the former authorities”, Azatutyun.am, 05.06.2019, <https://www.azatutyun.am/a/29983350.html>

54 Announcement on the Harassment against the Open Society Foundations–Armenia, Protection of Rights Without Borders NGO, 5 June 2019



### RECOMMENDATIONS FOR AREA 3

- Create a more favourable tax environment for CSOs to engage in direct entrepreneurship.
- Dismiss the requirement for mandatory financial audit<sup>55</sup>, placing the auditing responsibility on the government in case if funding was allocated from public resources.
- Provide adequate protection from third-party allegations and hate speech through the introduction of appropriate legal regulations and, where appropriate, initiation of ethical proceedings against officials (see section 1.8).

## 4.4 Freedom of Peaceful Assembly

### STANDARD 1. EVERYONE CAN FREELY ENJOY THE RIGHT TO PEACEFUL ASSEMBLY BY ORGANISING AND PARTICIPATING IN ASSEMBLIES

Freedom of peaceful assembly can be exercised by anyone with certain limitations set for specific groups of officials. Instances of threats and restrictions by police often took place in past particularly in regions; however, the situation improved over the last year.

**The freedom of peaceful assembly is guaranteed by the Constitution of Armenia and regulated by the Law on Freedom of Assembly. Restrictions on the exercise of the right to freedom of assembly are prescribed for judges, prosecutors, investigators, and for those serving in the Armed Forces, national security, police and other military bodies. All these groups are required to demonstrate political neutrality and restraint when participating in assemblies, and do not have the right to organise such assemblies that may cast doubt to their political neutrality, nor they may participate in the assemblies in official uniforms.<sup>56</sup> Spontaneous assemblies, simultaneous assemblies and counter assemblies are allowed by law.**

In practice, no instances of rejection of peaceful assemblies by authorities have been reported during the past two years within the monitoring research. CSOs based in regions state that one could meet difficulties when organising of assemblies in regions, especially before the 2018 revolution. In particular, people were reluctant to organise and participate in assemblies on political topics, for example, of fear to lose their jobs. There were also cases when the police preliminary visited or called the activists or their relatives before the planned time assembly, inciting them not to participate, or blocked inter-regional roads not to allow participation in assemblies organised in the capital.<sup>57</sup> A group of civic activists in Ijevan attempted to organise a protest action in April 2018, but in the early morning of the planned action day, the young

55 Few of Eastern European countries apply financial audit requirement towards CSOs, and even in these countries this requirement is applied in case if CSOs have special status and/or significantly high annual turnover. For example, audit requirement is set in Slovakia for foundations with annual turnover exceeding almost 166,000 EUR, in Poland for public benefit organisations with income starting from 724,000 EUR, in case at least 12,000 Euro was from public sources, source: Handbook on civil society organisations, registration and operation, 2016, <http://ecnl.org/wp-content/uploads/2016/04/Handbook-on-Civil-Society-Organizations-Registration-and-Operation-Comparative-Aspects.pdf>. In Bulgaria, CSO can be subject to mandatory audit in case they have at least 500,000 EUR in financing or assets, or twice of this amount, depending on their status, source: Legislation on Non-Profit Organisations, 2018, [http://bcnl.org/uploadfiles/documents/Blue\\_ZULNC\\_Q\\_A\\_2018\\_FINAL.pdf](http://bcnl.org/uploadfiles/documents/Blue_ZULNC_Q_A_2018_FINAL.pdf)

56 RA Law on Freedom of Assembly, 14.04.2011, article 8

57 FGD Gyumri, 12.04.2019, FGD Yeghegnadzor, 23.04.2019

leaders of the protest were detained by the police without any legal grounds before even going out to the street.<sup>58</sup>

The episodes of detention of participants in assemblies are numerous: only during the April 2018 events more than 1,200 people were detained.<sup>59</sup> Forty-one people were arrested on suspicion of organising and conducting illegal assaults, violence and abuse, but the criminal proceedings were subsequently discontinued.

In the second half of 2018, according to the Helsinki Committee of Armenia, access to and protection of the right to freedom of assembly was improved and the number of assemblies increased.<sup>60</sup>

## STANDARD 2: THE STATE FACILITATES AND PROTECTS PEACEFUL ASSEMBLIES

Though notification requirement is set by law, many assemblies take place without notification. As a rule, assemblies are accompanied by police for protection purposes, but incidents of police intervention and violence take place.

According to the law, the assembly organiser is required to give written notification to the head of the community at least seven days prior to assembly date, with the exception of assemblies with up to 100 participants, urgent and spontaneous assemblies. The purpose of notification is to ensure that the state can take the measures necessary for securing the natural and peaceful course of the assembly, as well as take necessary measures for protecting the constitutional rights of other persons and the interests of the public.<sup>61</sup> The community head's decisions on holding assemblies can be appealed in the administrative court, and the appeal should be reviewed in two calendar days<sup>62</sup>, which allows for the court decision to be issued before the scheduled date for the assembly.

In practice, most of the assemblies of the past two years took place without notification. Thus, according to the monitoring of Helsinki Committee of Armenia, out of 158 assemblies observed in Yerevan and Gyumri in the period of 1 July 2017 – 30 June 2018, only 15 were held with due notification, while in other cases the assemblies had urgent or spontaneous nature, or involved small number of participants, or were organised without notice. Almost all the assemblies were accompanied by police for protection purposes, but in some cases the police intervened in the process and removed or attempted to remove the demonstrators; e.g. in instances when the demonstrators attempted to block the streets, to hinder police movement, or to remove the barriers.<sup>63</sup> Police intervention in the assemblies was most often observed during assemblies held in April 2018. In 2019, there were episodes of intervention when the participants in the assembly protesting against dismantling of cafes organized by the local government blocked the traffic.<sup>64</sup> A number of mass protests against exploitation of Amulsar mine took place in August 2019. According to CSOs and protesters, excessive police force was

58 FGD Gyumri, 12.04.2019

59 Report on Monitoring of Freedom of Peaceful Assemblies (July 2017 - June 2018), Helsinki Committee of Armenia, Yerevan, 2018

60 Human Rights in Armenia 2018, Helsinki Committee of Armenia, Yerevan, 2019

61 RA Law on Freedom of Assembly, 14.04.2011, articles 9-13

62 RA Administrative Procedure Code, article 204

63 Report on Monitoring of Freedom of Peaceful Assemblies (July 2017 - June 2018), Helsinki Committee of Armenia, Yerevan, 2018

64 Cafe Owners, Employees Protest Dismantling Order, Azatutyun.am, 14.03.2019, <https://www.azatutyun.am/a/29820919.html>; Report on Monitoring of Freedom of Peaceful Assemblies, Helsinki Committee of Armenia (July 2018 - June 2019), Yerevan, 2019

used against the participants of the rally on Baghramyan Avenue, when participants blocked Baghramyan Street after not being allowed to enter the park adjacent to National Assembly for holding public debates on the issue.<sup>65</sup> CSOs mention that a discretionary approach by the police is still applied: it is possible that the place and the circumstances of two different assemblies are the same but the level of police intervention is different depending on the purpose of the assembly,

In the past few years, the only case where the state has explicitly rejected to fulfil its obligation of protecting assembly, though due notification was filed by the organisers, was the LGBT Christian Forum of Eastern Europe and Central Asia, scheduled for autumn 2018. The organisers decided to cancel the forum as the police had addressed the organisers with an urge to abstain from its organisation, taking into account associated security risks.<sup>66</sup>

In law and practice, there are no limitations for using electronic means and social media for organising or coordinating peaceful assemblies.

### **STANDARD 3: THE STATE DOES NOT IMPOSE UNNECESSARY BURDENS ON ORGANISERS OR PARTICIPANTS IN PEACEFUL ASSEMBLIES**

There are no unnecessary burdens set on assembly organisers, and the latter can use communication means and equipment without any unlawful restrictions.

According to the Law on Freedom of Assembly, the organiser of the assembly is required to be present at the assembly and be accessible for the police representatives, taking the necessary measures to ensure the normal course of the assembly, in particular, through preventing violent actions by the assembly participants. The organiser should also take measures to refrain from violence and separate from participants ready to use force. He/she is obliged to immediately inform the participants about the requirements of the police officers on ensuring the peaceful and normal course of the assembly. The leader of the assembly has a right to address the police officers with a request to remove from the assembly venue the persons, who grossly violate the peaceful and normal course of the assembly.<sup>67</sup> There are no fees required from the state for facilitation of assembly or any other associated costs. The law does not call for liability of organisers for the actions of assembly participants.

In practice, no unjustified obstacles were reported for communication on assembly by organisers or use of equipment during the assemblies.

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65 Statement by Civil Society Organizations on violation of freedom of peaceful assembly by police on August 19, 20.08.2019, <https://transparency.am/en/news/view/2816>; Participants in a rally against the exploitation of the Amulsar mine claim that the police used disproportionate force against them, Arminfo.am, 20.08.2019, [https://arminfo.info/full\\_news.php?id=44529&lang=3](https://arminfo.info/full_news.php?id=44529&lang=3)

66 Announcement: New Generation Humanitarian NGO, 06.11.2018, <https://ngngo.net/en/news/ANOUNCEMENT/97>, Valery Osipyan on LGBT Forum: "It is inexpedient, I personally don't find it reasonable to hold it, particularly from risk and security perspective", Aravot, 06.11.2018, <https://www.aravot.am/2018/11/06/991547/>

67 RA Law on Freedom of Assembly, 14.04.2011, article 31

#### STANDARD 4: LAW ENFORCEMENT SUPPORTS PEACEFUL ASSEMBLIES AND IS ACCOUNTABLE FOR THE ACTIONS OF ITS REPRESENTATIVES

Disproportionate police presence and unlawful use of police force during the peaceful assemblies were reported in a number of cases, but the measures undertaken to hold police officers accountable are not sufficient.

According to the Law on Freedom of Assembly, if the assembly is conducted in violation of the notification requirements, the police shall announce by a loudspeaker that the assembly is unlawful and that the participants may be held liable. If the assembly is peaceful, then the Police shall be obliged to facilitate the assembly.<sup>68</sup> According to the Law on Police, it is forbidden to use special means to disperse peaceful assemblies which are held without use of weapons or violation of public order, or to include in police armour such types of special means that can cause severe damage to health or pose an unsubstantiated source of risk.<sup>69</sup> The same law commends that when on public order maintenance duty, police servants are obliged to wear prescribed uniform with visible signs allowing personal identification of the police servant.<sup>70</sup>

According to the monitoring results, during assemblies held in 2017-2018, the number of police officers was disproportionately large, and presence of officers without police uniforms was reported. During the peaceful assemblies that took place within the period from 16 April to 23 April 2018, a number of cases of excessive force, violence and unnecessary interference by the police were observed. According to reports, there was no prior warning by the police before the use of special means.<sup>71</sup> As a result of special means used by police, many citizens and journalists were injured. Numerous demonstrators were detained in the police departments, in some cases with violation of the procedures and maximal timeframe for detention set by law (3 hours). The activities of lawyers protecting their rights were often hindered<sup>72</sup>: on many occasions officers in police departments prevented them from meeting with their clients claiming that there was no person there having their client's name, and/or demanded that lawyers wait there and would not letting them in.<sup>73</sup>

During the post-revolutionary period serious cases of police intervening into assemblies were not observed until August 2019, when a rally against exploitation of Amulsar mine resulted in clashes with police and use of excessive police force.

A number of proceedings were initiated on the grounds of police violence and use of excessive force during 2015-2018 protests.<sup>74</sup> However, the results are still considered insufficient by the experts participating in the research: only a few police officers were charged by the time of writing the report and the applied sanctions, if any, were mostly administrative. Some cases were suspended on the basis that perpetrators could not be identified; some are still in inves-

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68 RA Law on Freedom of Assembly, 14.04.2011, article 32

69 RA Law on Police, 16.04.2001, article 31

70 RA Law on Police, 16.04.2001, article 12

71 Report on observations of the events that occurred and of the assemblies that were held in the Republic of Armenia in April-May 2018, Helsinki Committee of Armenia, Yerevan, 2018

72 Report on the Human Rights Violations during the Peaceful Assemblies of April 13-20 of 2018, Protection of Rights Without Borders NGO, 20.04.2018

73 Report on observations of the events that occurred and of the assemblies that were held in the Republic of Armenia in April-May 2018, Helsinki Committee of Armenia, Yerevan, 2018

74 Report on Monitoring of Freedom of Peaceful Assemblies (July 2017 - June 2018), Helsinki Committee of Armenia, Yerevan, 2018

tigation.<sup>75</sup> After a visit to Armenia in November 2018, UN Special Rapporteur on Freedom of Peaceful Assembly and Freedom of Association urged the government of Armenia “to ensure that prompt, impartial and effective investigations are undertaken in relation to all pending cases and allegations of violations to the right to peaceful assembly and that the perpetrators are prosecuted and that the victims and their families are provided with redress.”<sup>76</sup>

#### RECOMMENDATIONS FOR AREA 4

- Ensure that police officers duly conduct their responsibilities during assemblies, apply consistent approach regardless the theme of the assembly, wear appropriate uniforms envisaged by law, and exclude physical violence in their actions.
- Carry out proper investigation of the cases of abuse and violence by police representatives and hold them accountable.

## 4.5 Right to Participation in Decision-Making

### STANDARD 1: EVERYONE HAS THE RIGHT TO PARTICIPATION IN DECISION-MAKING

The law provides mandatory public consultations on draft normative legal acts on national and local level. However, participatory mechanisms are not consistently and effectively applied in practice, and the impact of participation is often not visible.

The Law on Normative Legal Acts states that draft laws are subject to public consultation, except for the draft law on ratification (joining) an international treaty. Drafts of other normative legal acts may be submitted for public discussion on the initiative of the body developing the draft or the body adopting the draft. The duration of public discussions is at least 15 days.<sup>77</sup>

According to the procedure of organising and conducting public consultations approved in 2018 by the government decision,<sup>78</sup> it is mandatory to conduct a public consultation of a draft normative legal act developed by a government agency through its publication on the official website of the given agency as well as on the Unified Website for Publication of Draft Legal Acts maintained by the RA Ministry of Justice (with exceptions including decisions on military situation and state of emergency, decisions involving state secrecy).<sup>79</sup> Unified Website for Publication of Draft Legal Acts – e-draft.am – was launched in 2017 and allows anyone to get familiarised with the draft legal acts presented by various government agencies, download the drafts, and in case of registration (either as an individual or a legal entity) vote pro or

75 Report of CPFE on the Situation with Freedom of Expression and Violations of Rights of Journalists and Media in Armenia, Committee to Protect Freedom of Expression, 1st half of 2019, 2019; Report on Monitoring of Freedom of Peaceful Assemblies, Helsinki Committee of Armenia (July 2018 - June 2019), Yerevan, 2019

76 Statement by the United Nations Special Rapporteur on the rights to freedom of peaceful assembly and of association, Clément Nyaletsossi VOULE, at the conclusion of his visit to the Republic of Armenia, Yerevan, 16 November 2018

77 RA Law on Normative Legal Acts, 21.03.2018, articles 3-4

78 RA Government Decision No. 1146-N “On Approving the Procedure for Organising and Conducting Public Consultations and Revocation of the Decision No. 296-N of the Government of the Republic of Armenia dated March 25, 2010”, 10.10.2018

79 Procedure for Organising and Conducting Public Consultations, Appendix to RA Government Decision N 1146-N, 10.10.2018, Clause 10

con and submit recommendations. The summary of the proposals with justification for their rejection or acceptance is available both for registered and non-registered users.<sup>80</sup> According to the procedure of organising and conducting public consultations, the summary, protocols and revised drafts are posted on the official website of the body organising public consultation, as well as on the e-draft.am website. Based on the analysis and summary of the received proposals, the body carrying out public consultation makes the necessary adjustments to the draft.<sup>81</sup>

The RA Ministry of Justice coordinates the operation of the unified website and monitors the process of posting and discussing drafts. In case of identifying incompliance with the public consultation procedure, individuals and legal entities may apply to the state body implementing consultation or the Ministry of Justice to get clarification. In case a draft law has not undergone public discussion prior to submission to the government, the government can send it back to the body which submitted the draft and urge it to publish the draft for consultations.<sup>82</sup>

Public consultations are also held in the format of public hearings or surveys which, however, are not mandatory. Public hearings may also be convened in the National Assembly by the decision of the Chairman of the National Assembly, permanent or ad-hoc commission, or a fraction.<sup>83</sup> In this case, the organisation of hearings is not compulsory either.

The Law on Local Self-Government provides a number of opportunities for public participation at the local level. According to the law, residents should be informed on the local self-governance activities without any discrimination and can directly or indirectly influence the community decisions, either on individual level or through associations and civil initiatives.<sup>84</sup> Sessions in the community council are open, and in communities with more than 10,000 residents sessions should be broadcasted online at the community's official website. Community residents can initiate the inclusion of an item on the session agenda if necessary number of signatures is presented.<sup>85</sup>

The community head (mayor) is responsible for organising public hearings or consultations on key legislative initiatives and projects related to local self-governance, in particular community development programs and annual budget, decisions of community council and head in the areas of public services provided by the community or other areas.<sup>86</sup> In addition, in order to ensure community participation in five-year community development program or annual budget management, an advisory body adjunct to the head of the community can be formed with involvement of experts, residents and other stakeholders, based on the recommendation of the community head and by the decision of the community council. For the same purpose, public hearings or discussions are organised on the above-mentioned documents prior to their submission to the council meeting.<sup>87</sup>

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80 Unified Website for Publication of Draft Legal Acts, <https://www.e-draft.am/>

81 Procedure for Organising and Conducting Public Consultations, Appendix to RA Government Decision N 1146-N, 10.10.2018

82 Procedure for Organising and Conducting Public Consultations, Appendix to RA Decision N 1146-N, 10.10.2018

83 RA Constitutional Law "On the Charter of National Assembly" 16.12.2016, Article 125

84 The RA Law on Local Self-Government, 07.05.2002, amended 16.12.2016, Article 11

85 The RA Law on Local Self-Government, 07.05.2002, amended 16.12.2016, Article 14-16

86 The RA Law on Local Self-Government, 07.05.2002, amended 16.12.2016, Article 37

87 The RA Law on Local Self-Government, 07.05.2002, amended 16.12.2016, Article 84



In practice, according to experts and CSOs, proactive engagement of CSOs is essential for ensuring meaningful participation in the decision-making process. Although there are numerous participatory mechanisms envisaged by law, they are not always effective or consistently applied. Publication of legislative drafts on the government's unified website is appreciated by CSOs and can be very useful in terms of obtaining information, providing feedback and open access to any interested party, although there are cases when drafts are discussed in an urgent manner or posted on the e-draft platform at inappropriate period of time (for example during New Year's holidays or elections). The e-draft platform is not always effective, as the time period for discussion is usually set for 15 days, which is insufficient especially for thorough study of extensive laws and codes, or to make meaningful recommendations. CSOs can see the feedback to their proposals in the summary of proposals with justification for their rejection or acceptance. However, the statistics of pros and cons do not play any role in the adoption of the draft law, and the incorporation of proposals is questionable. Moreover, as the platform was set by government's decision, it is not mandatory for parliament fractions to post the drafts developed by parliament members on this platform.

In terms of public consultations, the "Center of Legislation Development and Legal Researches" Foundation adjunct to the Ministry of Justice can serve as an example of successful practice. The foundation was established in 2016 within the framework of USAID-funded project and, among other activities, organised public discussions with participation of state representatives and other bodies and stakeholders and public awareness-raising campaigns on legal drafts.<sup>88</sup>

At the same time, in case offline public discussions are organised by public authorities, relevant information is not always accessible to interested CSOs: such discussions are often invitation-based, while open discussions and public hearings are rare. Often the discussions are initiated or instigated by CSOs. For example, hearings on the annual budget were organised in a community after a CSO representative learned that budget discussion is included in the agenda of the council meeting, contacted the community administration and claimed that the council could not approve the community budget without appropriate hearings.<sup>89</sup> There were cases when the council session was held behind closed doors to avoid CSO participation. Thus, despite the diverse mechanisms of public participation available by law, they are not always enforced by the state or local authorities, and the outcome depends on the determination and consistency of CSOs.

Discussions on key public issues, according to CSOs, should not be limited to e-draft platform, public councils, or invitation-only meetings, but include a number of open discussions and hearings, especially in case when the drafts raise debates or are subject of high public attention. In addition, CSOs find it necessary to set specific criteria for public consultations: for example, a minimal number of participants, or participation of CSOs experienced in the discussed field, and not narrow the public consultation to a mere publication of the legal draft. Experts also find important that CSOs should be involved in the initial stage of decision making process when discussing general concepts and approaches, prior to development of draft

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<sup>88</sup> For more information, see the Facebook page of the "Center of Legislation Development and Legal Researches" Foundation, [https://www.facebook.com/legislativefund/?ref=br\\_rs](https://www.facebook.com/legislativefund/?ref=br_rs)

<sup>89</sup> FGD Yerevan, 18.04.2019

laws.

Another issue often pointed out by FGD participants and survey respondents is the impact of participation. CSO recommendations may be denied for a very general reason (e.g. finding the proposal “inexpedient”) or even without any justification. After extensive participatory processes and multiple recommendations, it is possible that the final decision is completely different from the discussed and agreed version, as it may change at the last moment before submitting to the parliament or even in between the parliament readings. Several experts, as well as many CSOs participated in FGDs and the online survey, characterised participatory processes with the words “formalistic”, or “imitation”. However, some CSOs pointed out that compared to the previous years the current government has demonstrated greater openness to CSOs recommendations, which is particularly observed in the discussion of specific strategies and draft laws.

**STANDARD 2: THERE ARE CLEAR, SIMPLE AND TRANSPARENT MECHANISMS AND PROCEDURES IN PLACE THAT FACILITATE REGULAR, OPEN AND EFFECTIVE PARTICIPATION OF CSOS IN DEVELOPING, IMPLEMENTING AND MONITORING PUBLIC POLICIES.**

Public councils and joint working groups serve for better engagement of CSOs in policy development and monitoring. The functionality and effectiveness of these consultative bodies often depend on the responsible agency.

Apart from public consultation tools described above, the main institutional mechanism for participation in public policy development, implementation and monitoring are councils and working groups established in various state agencies, community and regional governance structures, and around sectoral policies.

The consultative body of the government - Public Council (Public Chamber) – has been formed with an aim to represent the interests of different strata of society in the policy-making and implementation of the policy, facilitate civil society participation in public administration processes, identify public opinion on issues of public interest, including laws and other normative legal acts, state programs, strategies, concepts and their drafts.<sup>90</sup> Any person who is over 25 years of age, has served the country, has a good reputation in the public or professional field, as well as skills necessary to perform the tasks set before the Public Council, can be a member of Public Council. Persons holding political or administrative positions, officers of the armed forces, police, national security, prosecution and investigative bodies, persons with the highest rank in the public service roster cannot serve in the Public Council.<sup>91</sup>

In 2016, the government adopted a decision according to which public councils adjunct to the ministries should be set up to ensure civil society participation in the implementation of the objectives and functions of the ministries, and corresponding item was added in the ministries’ charters (see more details under CSO-State Cooperation).<sup>92</sup> The councils shall hold discussions with the participation of public organisations or other stakeholders to identify the opinions and views of different strata of the society in relation to objectives and goals of the ministry and make recommendations and comments on draft legal acts, concepts, strategies

<sup>90</sup> RA Law on Public Council, 07.03.2018, Article 2

<sup>91</sup> RA Law on Public Council, 07.03.2018, Article 4

<sup>92</sup> RA Government Degree No 337-N “On Amendments and Additions to a Number of Decisions by the Government of the Republic of Armenia”, 31.03.2016



and action plans, reforms and other issues presented by ministries. Their functions also include facilitating the organisation and implementation of public consultations.<sup>93</sup> Both CSO representatives and citizens can apply to be involved in the councils. The public councils in each ministry are usually chaired by the respective minister.

Many research participants are sceptical about the activities of the Public Council, finding it a formality and non-effective structure. As to public councils adjacent to ministries, CSOs' opinions vary, as the functionality and effectiveness of a council often depend on the responsible agency. One of the respondents noted that ministries view public councils as an obligation rather than an opportunity that can benefit of their operations and objectives. In addition, these councils have a purely advisory function, thus the government does not have any obligation to consider the results of the discussions and recommendations proposed by councils.

Apart from institutional platforms, some CSOs sign individual cooperation memoranda with specific agencies aimed at common goals in their field of activity, or establish long-term cooperation without any associated documentation. Some of the interviewed experts point out that there is no need for institutional platforms or documentation for establishing co-operation: what matters is the professional experience and commitment of CSOs, and government's willingness to cooperate. CSOs that are well-known in their area of activity and make well-developed recommendations are heard by state bodies and often invited to discuss or comment on some government initiatives.<sup>94</sup>

CSOs engage in policy implementation through collaboration memorandums, within state-funded or donor-funded programs. Collaboration within state supported programs take place, for example, in social assistance area, when social services are provided to vulnerable groups by specific CSOs, youth policy implementation, sport and education programs.

Policy monitoring projects are mostly conducted with support of international organisations. State bodies usually demonstrate openness to discuss monitoring results and might take them into account in further policy development. However, there are no national legal and institutional mechanisms for outsourcing policy implementation and monitoring to CSOs, and CSO participation in policy monitoring and implementation processes mostly depends on the pro-activeness and assertiveness of CSOs, as well as their ability to get donor funding for relevant activities.

### **STANDARD 3: CSOS HAVE ACCESS TO THE INFORMATION NECESSARY FOR THEIR EFFECTIVE PARTICIPATION**

Access to information necessary for CSO participation is provided by law. Getting information from local authorities might be problematic, while proactive publication of information on official websites is often not properly implemented as defined by law.

Access to information is guaranteed by the Constitution of Armenia: everyone has the right to receive information and to familiarise with documentation about the activities of state and

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93 Appendix 1 to the RA Government Decision N 624-L, 22.05.2018, Model Form of the Ministry Charter, Article 11

94 Central and Eastern Europe and Eurasia 2017 CSO Sustainability Index, 2018 September; Expert Interviews

local self-government bodies and officials.<sup>95</sup> The Law on Freedom of Information defines the duties of the information holder as well as the procedure, form and conditions for obtaining information. In 2015, the government adopted the procedure for registration, classification and maintenance of information developed by or delivered to the state and local self-governing bodies, state institutions, and state-funded organisations. This procedure also includes information requests sent to state bodies in electronic form.<sup>96</sup>

According to the law, the responses to written information requests are submitted to the applicant within a five-day period, while in case additional effort is required for providing the information, the information is provided to the applicant within 30 days after receipt of the request.<sup>97</sup> Restrictions on information provision relate to national security or professional confidentiality, private information, preliminary investigation data, and copyrighted data.<sup>98</sup>

The fee charged by public administration and local self-governing bodies, public institutions and organisations includes only the technical costs of providing such information, but no charges are levied, for example, for printing or copying information within 10 pages, or providing information by e-mail, or responding to written inquiries on specific issues, or refusing to provide information.<sup>99</sup> The state fee for obtaining complete information about any organisation from the State Register is 3,000 AMD (5.7 EUR).<sup>100</sup>

CSOs find that in practice the process of information provision by public administration bodies has improved throughout the years, the inquiries are mostly responded in time, with fewer evasive responses. Information provision is more problematic on the community level: many CSOs have highlighted cases when the community administration provided a late response, sometimes after a follow-up inquiry, and sometimes did not respond at all. There have been cases when regional administrations or municipalities responded to written inquiries by phone, which contradicts the law. One CSO described an example when an e-mail request was responded in paper form, and the community administration required compensation for printing costs. In another instance, the related fees exceeded several times the market value for printing and copying documents.

Out of 94 online survey respondents, 54 said they had sent information requests to state bodies in recent years. Of these, 26 received the requested information, 19 have partially received the requested information and 8 CSOs did not receive it. In the case of refusal or non-disclosure of information, CSOs can apply to the court, but they do rarely rather as a matter of principle, since the judicial process is often time-consuming, and the information required often loses the relevance by the time of issuing the verdict.<sup>101</sup>

With development of e-government platforms in recent years, the government has increased

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95 Constitution of the Republic of Armenia, 05.07.1995, amended on 06.12.2015, Article 51

96 RA Government Decision No. 1204-N "On establishing the procedure for registration, classification and maintenance of information developed by or delivered to the information holder, as well as the provision of information or its duplicate (copies) by state and local self-governing bodies, state institutions and organisations", 15.10. 2015

97 The RA Law on Freedom of Information, 23.09.2003, Article 9

98 The RA Law on Freedom of Information, 23.09.2003, Article 8

99 The RA Law On Freedom of Information, 23.09.2003, Article 10

100 The RA Law On State Duty, 27.12.1997, Article 20

101 Enabling Environment National Assessment (EENA) - National Report Armenia, NGO Center, Yerevan, 2018

the opportunities to view and receive information online. Armenian legal information system contains information on all current (as well as obsolete) laws and other legal acts,<sup>102</sup> while the electronic government website provides information on government sessions, decisions, and a number of other items.<sup>103</sup> Other websites provide information on procurements, judicial acts, licenses, or other specific information. In 2018, a unified platform for electronic inquiries – e-request.am – was launched, allowing to send an electronic request to state bodies (including the parliament, staff of the prime minister, ministries, regional government offices and other state agencies) in one window format, after which inquiries are sorted and sent to the responsible official.<sup>104</sup>

The law also envisages the disclosure of information by the government. All state agencies, regional administrations and major communities have their own official websites, where they publish information about their activities and have feedback options. For example, at least once a year they should publish information as specified by law in the form accessible to the public and post the information on a web page, if available.<sup>105</sup> The Law on Local Self-Government stipulates that a community of 3,000 and more inhabitants must have an official website where, in particular, the following information should be made publicly available: documentation, procedures, location and timelines of meetings, public hearings and discussions with community residents; the results of public hearings and discussions on decisions of the community council and community head as well as on other documents prescribed by law; procedures on participation of local community residents in the self-government process, procedures of formation and operation of consultative bodies adjunct to the head of the community, of conducting open public hearings and discussions, other procedures and relevant information.<sup>106</sup> However, CSOs specialised in freedom of information highlight issues of disclosure of the necessary information, as the state agencies and particularly municipalities do not always publish timely and complete information as required by law. With the new government, publication of information on official websites was pushed into the background with an emerging culture of notifications through Facebook or news media.<sup>107</sup>

#### **STANDARD 4: PARTICIPATION IN DECISION-MAKING IS DISTINCT FROM POLITICAL ACTIVITIES AND LOBBYING**

When participating in policy making, CSOs do not face legal or practical restrictions linked with regulations of political activities or lobbying.

According to the law, CSOs cannot pursue objectives that are reserved for other organisational types, such as political parties.<sup>108</sup> In particular, the goals of political parties are defined as “participation in referendums, elections of national and local government, and other forms of participation in public and state political life with purpose of contributing to the formation and expression of the people’s political will”.<sup>109</sup> This provision does not legally or in practice

102 Armenian legal information system, <https://www.arlis.am>

103 E-government of the Republic of Armenia, <https://www.e-gov.am>

104 Unified platform for e-inquiries, <https://www.e-request.am/en>

105 The RA Law on Freedom of Information, 23.09.2003, Article 7

106 The RA Law on Local Self-Government, 07.05.2002, amended 16.12.2016, Article 11

107 Enabling Environment National Assessment (EENA) - National Report Armenia, NGO Center, Yerevan, 2018

108 RA Law on Public Organisations, 16.12.2016, article 3

109 RA Constitutional Law on Political Parties, 16.12.2016, article 2

impede the participation of CSOs in the policy-making process.

Presently Armenian legislation does not entail any provision on lobbying activities. In 2005, the government approved and presented to the parliament the draft law “On Lobbying Activity”, which was not adopted by the National Assembly.<sup>110</sup> CSOs voiced against the draft as it could limit their advocacy activities.<sup>111</sup> As to practical restrictions related to CSO advocacy activities, issues have been identified when CSOs were restricted in organising/participation in assembly (see more information under Freedom of Peaceful Assemblies), faced harassment for criticism (see more information under Freedom of Expression), or were attacked by hate speech when protecting the rights of sexual minorities or advocating for women’s rights (see more information under State Duty to Protect).

## RECOMMENDATIONS FOR AREA 5

- Enhance the opportunities for participation of the public and CSOs in the decision-making process. In addition to electronic platforms, organise open public discussions with relevant information disseminated through a wide range of public channels. In particular, it is recommended to place information on public discussions and hearings in a single platform and disseminate the announcements through the mass media, as well as to organise hearings and discussions in the regions.
- Specify the definition and criteria of public consultations, differentiating it from notification. Include mandatory requirements of collecting opinions, involving a minimal number of participants, providing feedback by the responsible body, etc., which will allow to state that public consultation is accomplished. Establish more realistic timelines for public consultations, allocating sufficient time for CSOs to thoroughly review the drafts, develop and present proposals, and organise discussions with stakeholders as necessary.
- Develop mechanisms for mandatory public consultation of legislative drafts produced by the parliament, as in case of state administration bodies, which post the legal drafts on e-draft.am platform in accordance with the government’s procedure.
- Initiate consultations starting from the initial stage of drafting legal drafts, involving CSOs and experts specializing in the field, as well as other interested stakeholders. Introduce the legal requirement for mandatory consultation in the early stage of law-making.
- Ensure meaningful participation of CSOs in the decision-making process by ensuring (among others) that:
  - Well-justified CSO comments and recommendation are taken into account.
  - CSOs are engaged in consultation of subsequent drafts up to the adoption stage.

110 RA Draft Law on Lobbying Activities, <http://www.parliament.am/drafts.php?sel=showdraft&DraftID=793&Reading=0&lang=arm&enc=utf8>

111 Statement of Partnership for Open Society Initiative on RA Law “On Lobbyist Activities”, 11.11.2005, <https://transparency.am/en/statements/view/101>, Reform or Repression?: NGOs say law on lobbying would hamper their activities, ArmeniaNow.com, [https://www.armenianow.com/news/6462/reform\\_or\\_repression\\_ngos\\_say\\_law](https://www.armenianow.com/news/6462/reform_or_repression_ngos_say_law)

- Feedback is provided to all the recommendations and there are appropriate justifications in case of rejection.
- Establish institutional tools and platforms for CSO involvement in state policy monitoring and implementation.
- National and local authorities should respond to CSO inquiries in a timely and comprehensive manner ensure timely publication and continuous update of information on their official websites. They should also establish effective and timely remedy mechanisms in case of violation of these legal provisions.
- Provide free access to the registry data available on the website of the State Register, as well as other databases managed by the state in order to promote public participation and oversight.
- Enhance the transparency of the activities of public councils and other advisory bodies and improve the effectiveness of these bodies through applying more strategic approach towards their activities, allowing larger scope of powers in decision-making process, and establishing mechanisms for more in-depth discussions and activities.

## 4.6 Freedom of Expression

### **STANDARD 1: EVERYONE HAS THE RIGHT TO FREEDOM OF OPINION AND EXPRESSION.**

Everyone is free to express his/her opinion, and the freedom of expression has improved in terms of repercussions by state bodies or officials. However, the level of public intolerance and use of hate speech have significantly increased.

**Freedom of expression is guaranteed by the Constitution of Armenia: everyone has the right to freedom of expression, including the freedom to seek, receive, and impart information and ideas without interference from state and local self-governing bodies and irrespective of state borders. Freedom of expression may be restricted only by law in order to protect the fundamental rights and freedoms of public security, public order, health or morals, or the dignity and reputation and the rights and liberties of others.<sup>112</sup>**

The constitution also guarantees freedom of the press, radio, television and other media. The freedom of media is regulated by the laws “On Mass Media” and “On Television and Radio”. According to the law, media practitioners and journalists act freely on the basis of principles of equality, lawfulness, freedom of expression and pluralism. Censorship, coercion, hindrance to professional activities, and discrimination are prohibited by law. The law restricts only the dissemination of information that is considered secret information as stipulated by law, or information advocating criminally punishable acts, as well as information violating the right to privacy of ones’ personal or family life.<sup>113</sup>

Media outlets are issued and distributed without prior or current state registration, licensing,

<sup>112</sup> Constitution of the Republic of Armenia, 05.07.1995, amended on 06.12.2015, Article 42

<sup>113</sup> RA Law on Mass Media, 13.12.2003, article 7

declaration or notice to any state body.<sup>114</sup> The requirement for licensing of mass media refers exclusively to radio and television companies.

According to research participants, limitations on freedom of expression in the past two years are mainly linked with the period prior to April 2018, when severe criticism of the state system could have resulted in facing pressure or repercussion, especially in regions. One of the participants of the survey renders the following example: “In Ijevan, our organisation raised the issue of garbage collection practically for the first time, highlighting the problem of poor utility services, as a result of which the municipality responded very harshly, by insulting and defaming the employees of the organisation.”<sup>115</sup> Other CSOs mentioned attempts of silencing and guiding through telephone calls or relatives. In smaller communities, there is still an atmosphere of fear, constraint, caused by traditions, close family and kinship relationships.

Presently, the level of freedom of expression is assessed by experts as improved, but at the same time a significant increase in public intolerance and largely disseminated hate speech towards dissenting opinions is highlighted. There has also been a dramatic rise of hate speech in discussion of topics that have been traditionally sensitive for Armenia, such as homosexuality, religious minorities, and domestic violence. In these cases, hate speech can grow into offensive statements, calls for violence and threats to CSO representatives working in these areas.<sup>116</sup> It should be noted that the Armenian legislation does not define the concept of hate speech, but the Criminal Code envisages liability for inciting national, racial or religious hatred, actions aimed at racial superiority or humiliating national dignity.<sup>117</sup> Given the absence of anti-discrimination law and definition of hate speech in domestic legislation, there is a lack of action taken by authorities to prevent or punish these occurrences, and the police intervenes only when there are substantiated threats against a person’s life or violence exposed in action. A draft amendment to the Criminal Code is currently under discussion. According to the draft, a person will be held responsible for publicly calling to apply violence threatening anyone’s life or health, publicly justifying or advocating such violence.<sup>118</sup> If adopted, this draft will address hate speech issues to some extent.

## **STANDARD 2: THE STATE FACILITATES AND PROTECTS FREEDOM OF OPINION AND EXPRESSION.**

There are no unlawful restrictions of freedom of expression, though cases of interference to mass media activities have been reported.

There are no restrictions on Internet and social networks in Armenia. According to experts, online media have been practically unrestricted in free expression through the recent years, while after the revolution, the diversity of opinions is also present on the TV. The interviewees, as well as the relevant recent reports highlight legislative issues that impose restrictions on the licensed media - television and radio channels. For example, the Law on Television and Radio limits the number of regional TV and radio channels, while the terms and conditions

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114 RA Law on Mass Media, 13.12.2003, article 4

115 FGD Gyumri, 12.04.2019

116 For statistical data on hate speech covering the period from July to December 2018, see the article “Hate speech monitoring, interim report (July-December 2018)”, Helsinki Committee of Armenia, 2019

117 RA Criminal Code, 18.04.2003, article 226

118 RA Draft Law on Amendments to the RA Criminal Code, <https://www.e-draft.am/projects/1862>,



set out for private multiplex – digital broadcasting network – are rather strict, so that no company is able to apply and, like in previous two years, the private multiplex tender has failed for the third time in 2018.<sup>119</sup>

According to the Law on Mass Media, media practitioners and journalists are not obliged to disclose their source of information. Exceptions to this might be the disclosure of the source of information of a media practitioner or journalist by the court decision in the course of a criminal proceeding with the aim of revealing heavy or the heaviest crimes. This disclosure is required in cases where societal interest in law enforcement outweighs the societal interest in protecting the sources of information, and all other means to protect public interest are exhausted.<sup>120</sup>

The confidentiality of whistle-blowers' identity is also protected: according to the Law on Whistleblowing, the whistle-blower has the right to protection and the protection of the personal data of the whistle-blower when submitting anonymous reports is guaranteed by the state.<sup>121</sup>

Defamation and libel have been de-criminalised in Armenia in 2010. Libel and insult, as well as maximum compensation rates, are regulated by the Civil Code of the Republic of Armenia, which sets compensation up to 1 million AMD (about 1,890 EUR) for insult and 2 million AMD (about 3,780 EUR) for defamation. However, according to the Civil Code, the court has to take into account the property of the defendant.<sup>122</sup>

The practical issues associated with the media freedom were the self-censorship tendencies during the previous power regime. At the same time, some issues were reported after the revolution in 2018: in particular, cases of requiring disclosure of media sources, searches in the offices of media outlets, supposedly on political grounds.<sup>123</sup> With regard to these cases, the journalist community and CSOs working in this area have issued a joint statement urging the authorities to take measures to keep the media out of the police's unlawful actions and to provide favourable conditions for the free operation of journalists and the media regardless of their political orientation.<sup>124</sup>

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119 2018 Annual Report of CPFE on the Situation with Freedom of Expression and Violations of Rights of Journalists and Media in Armenia, Committee to Protect Freedom of Expression, 2019

120 RA Law on Mass Media, 13.12.2003, article 5

121 RA Law on Whistleblowing, 09.06.2017, article 11

122 RA Civil Code, 05.05.1998, article 1087.1

123 2018 Annual Report of CPFE on the Situation with Freedom of Expression and Violations of Rights of Journalists and Media in Armenia, Committee to Protect Freedom of Expression, 2019

124 "We call on the new authorities to take measures to keep media free from unlawful actions by police and to provide more favourable conditions: Announcement", Media Lab, 10.12.2018, <http://medialab.am/news/id/9693>

## RECOMMENDATIONS FOR AREA 6

- Provide legislative regulations on hate speech and appropriate sanctions.<sup>125</sup>
- Adopt changes in the Law on Television and Radio to promote the diversity of television and radio companies and to ensure their freedom of operation.
- Exclude interference with media activity without proper legal grounds.

## 4.7 Right to Privacy

### STANDARD 1: EVERYONE ENJOYS THE RIGHT TO PRIVACY AND DATA PROTECTION

The right to privacy and protection of personal data is provided by law although occasionally violated in practice.

The Constitution of Armenia stipulates the right of every person to inviolability of his or her private and family life, honour and reputation, as well as the right to protection of personal data. The right to inviolability of private and family life may be restricted only by law, for the purpose of state security, economic welfare of the country, preventing or disclosing crimes, protecting public order, health and morals or the basic rights and freedoms of others.<sup>126</sup> The Criminal Code sets liability for using or disseminating anyone's personal or family-related private information without the latter's consent.<sup>127</sup>

The Law on the Protection of Personal Data regulates the procedure and conditions for the handling of personal data by state government or local self-governing bodies, state or community institutions, legal entities or individuals, as well as the procedure and conditions of exercising state oversight over these data.<sup>128</sup>

In practice, CSOs have not pointed out issues of intervening to CSO privacy except one episode. During the pre-election campaign in April 2017, Programme Coordinator of the "Union of Informed Citizens" NGO released a recording disclosing that school and kindergarten directors had recruited votes in favour of the ruling party. After that, Iravunk newspaper published information on his personal life and his family which were solely within the competence of the RA Police and the Investigative Committee. Based on the CSO representative's application, a criminal case was initiated on illegal collection and dissemination of personal and family-related private information, but a few months later the case was suspended.<sup>129</sup>

### STANDARD 2: THE STATE PROTECTS THE RIGHT TO PRIVACY OF CSOS AND ASSOCIATED INDIVIDUALS

According to law, searches in office premises or surveillance can be carried out only by a court decision. The reporting provisions for foundations might affect the

<sup>125</sup> As set forth in this study methodology, hate speech refers to all forms of expression which spread, incite, promote or justify racial hatred, xenophobia, anti-Semitism or other forms of hatred based on intolerance (Council of Europe, Recommendation No. R (97) 20 of the Committee of Ministers to Member States on "Hate Speech", adopted on 30 October 1997, Appendix to Recommendation)

<sup>126</sup> RA Constitution, 05.07.1995, amended on 06.12.2015, article 31

<sup>127</sup> RA Criminal Code, 18.04.2003, Article 144

<sup>128</sup> RA Law on the Protection of Personal Data, 18.05.2015

<sup>129</sup> 2018 Annual Report of CPFE on the Situation with Freedom of Expression and Violations of Rights of Journalists and Media in Armenia, Committee to Protect Freedom of Expression, 2018



right to privacy of its staff.

The law states that searches in office premises or surveillance can be carried out only by a court decision. During the interviews, some human rights activists said they had substantiated doubts over the wiretapping of their telephone conversations during the previous government.

In the annual report of the foundations, it is required to disclose the names of the members of the Board of Trustees, the manager and the staff of the foundation in case they have used foundation's resources and services during the reporting year. This may be considered problematic in terms of the right to privacy.

#### RECOMMENDATIONS FOR AREA 7

- Revise foundations' reporting format to respect the right of staff members on non-disclosing their identity.

## 4.8 State Duty to Protect

### STANDARD 1: THE STATE PROTECTS CSOS AND INDIVIDUALS ASSOCIATED WITH CSOS FROM INTERFERENCE AND ATTACKS

CSOs can defend their rights in the court. However, the state does not always provide CSOs with adequate protection when they are attacked by third parties, which happens especially when CSOs work in sensitive areas.

According to the Law on Public Organisations, the state ensures the protection of the rights and lawful interests of the organisation in the manner prescribed by law.<sup>130</sup> In accordance with the charter objectives, the public organisation has the right to represent and defend rights and lawful interests of its members, beneficiaries, volunteers in other organisations, in the court and in the bodies of state government and municipal bodies.<sup>131</sup> According to the Law on Foundations, the foundation has the right to act as a plaintiff or defendant in court.<sup>132</sup> The Administrative Procedure Code states that each individual or legal entity has the right to apply to the administrative court if he/she considers that his/her rights and freedoms have been violated or may directly be violated by the state or local self-governing body, including when they have encountered impediments to exercise these rights and freedoms or have not been provided with necessary conditions to do so.<sup>133</sup> The court investigation should be carried out within a reasonable timeframe.<sup>134</sup> Though there is a guideline on "reasonable timeframe" in the law, including the notion of "shorter possible timeframe", no specific timeline is indicated, and in practice, court proceedings can take several months and even years, mainly due to overload of courts in Armenia.

In practice, as the research shows, the state does not always provide CSOs with adequate pro-

<sup>130</sup> RA Law "On Non-Governmental Organisations", 16.12.2016, Article 9

<sup>131</sup> RA Law "On Non-Governmental Organisations", 16.12.2016, Article 16

<sup>132</sup> RA Law on Foundations, 26.12.2002, Article 3

<sup>133</sup> RA Administrative Procedure Code, 05.12.2013, Article 3

<sup>134</sup> RA Administrative Procedure Code, 05.12.2013, Article 84

tection when they are attacked by third parties. Moreover, sometimes state officials themselves use hate speech towards CSOs or associated individuals. As a rule, organisations protecting rights of LGBT people, women and religious minorities, as well as human rights defenders are subjected to attacks. Cases of assaults, threats towards human rights defenders, and suspension of initiated cases took place mostly prior to 2018 revolution. In the second half of 2018 and 2019, pressures on sexual and religious minorities increased. One of the most prominent cases is Shournukh incident in August 2018: the residents of Shournukh village kicked out one of the villagers and his guests, some of whom were LGBT members, by inflicting physical violence towards them. The criminal case initiated on this case was terminated on the grounds of amnesty.<sup>135</sup> In April 2019, public hearings on the UN Human Rights Universal Periodic Review were held in the National Assembly: the hearings were open to interested CSOs on the basis of prior registration. A representative of an NGO protecting transgender rights, also a member of transgender community, took stand to speak on the issues that transgender community faced, pointing out at the violence and persecution of those persons. In response, the Chairman of the NA Standing Committee on Protection of Human Rights and Public Affairs expressed her indignation, noting that the issues of transgender people were not included in the agenda, and therefore the presented speech constitutes disrespect towards her and the parliament. Human rights advocates found this response discriminatory.<sup>136</sup> However, most noteworthy was the feedback followed by certain groups of society and social media publications, often containing hate speech, expressions of intolerance, insults and threats.<sup>137</sup> Hate speech and intolerant expressions were also voiced by parliamentarians, church representatives, published and disseminated through the media. Following the incident, no ethical proceedings were launched against parliamentarians, and other parliamentarians did not initiate an ad-hoc ethics commission.

Like other CSOs protecting women's rights, Women's Support Center working in the area of violence against women, is often targeted by criticism and threats, for allegedly "breaking families" as the Center provides asylum to women subjected to violence by husbands and seeking security. The head of the organisation notes that in case of applying to the police they receive protection, and finds that the issue lies within the public education, elimination of stereotypes, and applying more stringent measures towards hate speech and hate crimes.

Since June 2019, regular demonstrations have been organised in front of the Open Society Foundations Armenia office by the "Veto" movement. The demonstrations are accompanied by threats and hate speech against office employees and visitors. The state has provided presence of police officers in order to prevent physical violence, but there is no protection against offenses and hate speech. According to the law, the freedom of assembly may be restricted only in case, when in a democratic society the protection of state security or the public order, the prevention of crime, or the protection of public health and morals or of the constitutional rights and freedoms of others are dominant in regard of the freedom of assembly.<sup>138</sup> CSOs

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135 Human Rights in Armenia 2018, Helsinki Committee of Armenia, Yerevan, 2019

136 "Naira Zohrabyan's response was discriminatory," Pink Armenia, 06/04/2019, <http://www.pinkarmenia.org/en/announce/naira-zohrabyan-s-response-was-discriminatory/>

137 "After a transgender person's historical speech in Armenia, LGBTI people receive death threats: The Guardian", Aravot, 26/04/2019, <https://www.aravot.am/2019/04/26/1038786/>

138 RA Law on Freedom of Assembly, 14.04.2011, article 5

find that the demonstrations of “Veto” has violated the rights of the employees and visitors, including their dignity, the right to mental integrity, the right to privacy, honour and good reputation, right to act freely and freedom of movement, as well as freedom of associations; however, the authorities did not take any action to effectively protect these rights.<sup>139</sup> In general, there is an increasing number of assemblies accompanied by expressions of hatred and sometimes incitement of violence, particularly against sexual minorities. A need to specify inciting hatred and violence among the grounds for restricting assembly (in addition to the restrictions for inciting hatred and violence on national, racial, and religious grounds as specified by law) was highlighted by CSOs.

The UN Special Rapporteur on Rights to Freedom of Peaceful Assembly and of Association issued a statement after his visit in November 2018 where he expressed a concern over the restrictions on the activities of the CSOs working with sensitive issues. He urged the government to effectively combat hate speech and incitement to hatred towards minority groups, condemn the use of discriminatory statements in public discourse, including by public figures, and ensure security and safety of participants when reasonably required.<sup>140</sup>

#### **STANDARD 2: MEASURES USED TO FIGHT EXTREMISM, TERRORISM, MONEY LAUNDERING OR CORRUPTION ARE TARGETED AND PROPORTIONATE, IN LINE WITH THE RISK-BASED APPROACH, AND RESPECT HUMAN RIGHTS STANDARDS ON ASSOCIATION, ASSEMBLY AND EXPRESSION**

Existing anti-corruption, counter-terrorism and anti-money laundering measures do not target CSOs or restrict them in their activities.

There are no anti-corruption laws and policies in Armenia that cover the rights and activities of CSOs. As a rule, the anti-corruption measures, such as those included in the Law on Public Service, or the Law on Whistleblowing System, refer to the activities of public officials. The draft “Anti-Corruption Strategy of the Republic of Armenia and its Implementation Action Plan for 2019-2022” was published for public consultation in June 2019. It incorporates a number of provisions on fight against corruption, including in the directions of corruption prevention, identification of corruption crimes and anti-corruption education and awareness-raising.<sup>141</sup> The Strategy highlights the importance of the participation of CSOs in anti-corruption processes.

The Law on Combating Money Laundering and Terrorism Financing<sup>142</sup> does not contain provisions that limit or impede the legitimate activities of CSOs or the exercise of fundamental freedoms. According to this law, reporting entities, including banks, credit organisations, notaries, state register, etc., are required to conduct a customer due diligence, introducing risk management procedures that will identify and evaluate potential or existing risks and ensure that adequate measures are taken. In the event of a high risk probability or in case of an assignment from authorised body the Central Bank of Armenia to undertake an additional investigation of the client, these entities should collect additional information about the cli-

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139 Statement on the attacks on OSF-Armenia, 27.09.2019, <https://transparency.am/en/news/view/2857>

140 Statement by the United Nations Special Rapporteur on the rights to freedom of peaceful assembly and of association, Clément Nyaletsossi VOULE, at the conclusion of his visit to the Republic of Armenia, Yerevan, 16 November 2018

141 Draft RA Government Decision on Approving Anti-Corruption Strategy of the Republic of Armenia and its Implementation Action Plan for 2019-2022, <https://www.e-draft.am/projects/1733>

142 RA Law on Combating Money Laundering and Terrorism Financing, 26.05.2008

ent.<sup>143</sup> CSOs are not reporting entities and have no obligations under the law.

Some CSOs mentioned that the bank required too detailed information for opening an account, for example, the passport data of all founders, or, in another instance, the bank requested the contract with funding donor along with all its appendices. Several CSOs noted that the bank had requested to fill in a form to identify the objective of the organisation and purposes of funds received.<sup>144</sup> The requirement for additional information is based on the provisions of the abovementioned law within the framework of combating money laundering and terrorism financing. Nonetheless, these requirements were considered to be excessive and burdensome by CSOs, although the bank could make such claims based on its internal legal acts.

#### RECOMMENDATIONS FOR AREA 8

- Set out legislative regulations on hate speech and ensure proper protection and enforcement of sanctions in the case hate speech and hatred display. Among the grounds for restricting the freedom of assembly, in addition to inciting hatred and violence on national, racial, and religious grounds, include inciting hatred and violence in general.
- Organise public awareness campaigns to promote tolerance, human rights supremacy, and elimination of hate speech.
- Set ethical commissions to review the conduct of officials in case they exercise discrimination and human rights violation, and launch ethical proceedings and apply appropriate sanctions as necessary.

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143 RA Law on Combating Money Laundering and Terrorism Financing, 26.05.2008, article 18

144 FGD Gyumri, 12.04.2019, FGD Yerevan, 16.04.2019

## 4.9 State Support

### STANDARD 1: THERE ARE A NUMBER OF DIFFERENT AND EFFECTIVE MECHANISMS FOR FINANCIAL AND IN-KIND STATE SUPPORT TO CSOS

State support is provided to a considerable number of CSOs; however, there is no clear differentiation between the purposes and procedures of different kinds of support.

The provision of state financial and in-kind assistance is regulated by the RA Government Decision “On approval of the procedure for providing subsidies and grants to legal entities from the state budget of the Republic of Armenia”. According to this decision, the organisation receiving a grant is selected in the result of a competition organised and held in accordance with the established procedure, while the subsidy is allocated on the basis of a subsidy agreement between the state body and the organisation.<sup>145</sup> However, in practice, for many years CSOs have received funds mostly without a competition procedure, based on the list of organisations receiving grants without competitions, which is specified in the law on budget, as well as in accordance with special legal acts.<sup>146</sup> The funding allocated under the articles “donations to non-profit organisation” and “subsidies to non-state non-financial organisation” in the budget of 2018 was 6.4 billion AMD (about 12,107,000 EUR). More funds were allocated to CSOs under the other articles including through service contracts.<sup>147</sup> There is no mechanism of social contracting defined by law: CSO services are acquired by the state through grants, subsidy provision or other funding contracts, as well as state procurement competitions which are open for all entities including CSOs. There is no summary information on amounts provided to CSOs for service provision. The Ministry of Labor and Social Affairs has been providing subsidies to CSOs delivering social services in the area of elderly care, centers for disabled children, but there is no consolidated information on this.

According to a research by NGO Center, the state funding in 2017 was allocated to 138 public organisations and 12 foundations. The amount allocated was almost equal for public organisations and foundations, while most of the foundations that received state funding (95%) were founded by state and/or had state participation in the management.<sup>148</sup>

The law does not provide clear specification of or does not differentiate between types of CSO funding, including service contracting, grants, donations, and subsidies. There is a lack of information on how the type of funding is defined, what are the principles of selecting competitive or non-competitive funding allocation, and what are the mechanisms of monitoring and evaluation in each case.<sup>149</sup>

CSOs receive funding also from the budgets of regional government and communities, but the information on funding amounts and number of CSOs receiving grants is not available.

145 RA Government Decision N 1937-N “On approval of the Procedure for providing subsidies and grants to legal entities from the State budget of the Republic of Armenia”, 24.12.2003

146 Independent Reporting Mechanism (IRM). Armenia Interim Report 2016-2018, 2017

147 RA Law on 2018 State Budget of the Republic of Armenia, 08.12.2017

148 Monitoring of CSO State Funding Sources, NGO Center Civil Society Development NGO, Yerevan, 2019

149 Monitoring of CSO State Funding Sources, NGO Center Civil Society Development NGO, Yerevan, 2019

## STANDARD 2: STATE SUPPORT FOR CSOS IS GOVERNED BY CLEAR AND OBJECTIVE CRITERIA AND ALLOCATED THROUGH A TRANSPARENT AND COMPETITIVE PROCEDURE

The procedures of state funding allocation, as well as monitoring and evaluation of outcomes of funded projects are not clear and transparent.

Only two state structures, the RA Presidential Administration and the RA Ministry of Sport and Youth Affairs<sup>150</sup> have organised grant competitions through intermediary organisations and published information on funded organisations and programs.<sup>151</sup> The Open Government Partnership Armenia fourth action plan envisages introducing competitive procedure for all grants,<sup>152</sup> and in 2019, the government has taken steps to launch competitive procedures in a number of ministries. During the research conducted in the framework of this monitoring, those CSO representatives that were involved in various agencies as a selection commission members or applicants, stated that the process was still in development. There are no clear selection procedures and criteria yet. The mechanisms for communications with grantee organisations and mechanisms of monitoring and evaluation of grant projects are not specified. Problems have also been reported in regard to unreasonable cost restrictions in specific budget items, as a result of which professional CSOs even avoid applying, being aware that they cannot provide proper quality services under the offered prices. In this situation, the effectiveness of implemented projects might be questioned.

As mentioned above, CSOs receive funding also from the budgets of regional government and communities, but the funding allocation has also been discretionary and non-transparent. Representatives of regional CSOs participated in FGDs said that they often did not know about the funding amount and the recipient organisations, moreover, they were not even aware of the possibility to apply for funding. One of the FGD participants noted that the former local authorities allocated funds to CSOs in return to their support in the election process: “It was common that a specific CSO should receive a certain amount, but the others would be rejected on the grounds of lack of budget”. FGD participants mentioned that the funds of the regional government administrations and municipalities were mainly allocated for organisation of cultural or festive events, as well as for core expenses.<sup>153</sup> At present, under the new government, there is a tendency to improve CSO funding transparency at the local level as well, but no specific procedures and mechanisms have been developed yet.

Some CSOs have received support from regional and community structures in the form of free office space allocation. However, in this case there are no clear criteria or mechanisms for assessing the outcomes of activities benefited from this assistance. At the same time, CSOs indicate that there is a risk of losing independence or at least to be perceived as such when applying for state support. For example, as told by a CSO, when using a space provided by regional administration, they sometimes received requests of information on various issues, and later decided to leave the administration’s premises to avoid the perception of being a regional administration department both in the view of staff and external audience.

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150 After adoption of the law on Making Amendments and Additions to the Law on “Government’s Structure and Activities” on May 8, 2019 this ministry was incorporated into the RA Ministry of Education, Science, Culture and Sport

151 Central and Eastern Europe and Eurasia 2017 CSO Sustainability Index, 2018 September

152 Fourth Action Plan of Open Government Partnership Initiative of the Republic of Armenia (2018-2020), Annex to Decision of the Government of the Republic of Armenia N 1307-L, 15.11.2018

153 FGD Gyumri, 12.04.2019, FGD Yerevan, 16.04.2019



According to the RA Government Decision “On Approval of the Procedure for Granting Subsidies and Grants to Legal Entities from the State Budget of the Republic of Armenia”, after the approval of the budget, the head of the relevant state body establishes a grant competition selection commission consisting of at least 3 members. However, there is no indication about involvement of CSO representatives in the commission. The decision also states that within 3 days upon signing the grant agreement, information about the grantee organisation and the proposed project are published on the official website of the state body that allocated the grant.

As mentioned above, in practice, the competitive process of state grant allocation is still under development, and there is limited open information on state-funded grant projects. CSOs participating in the survey have repeatedly pointed out the online grant system of the Ministry of Sport and Youth Affairs<sup>154</sup> as a positive experience of competitive and transparent state funding practice, where proposals are evaluated by a group of government and non-governmental experts, based on established criteria.<sup>155</sup>

The majority of respondents (55 out of 73) had not applied for state funding within last two years, and many described the application procedure as obscure and unclear. In the response to a question about preferential treatment towards certain CSOs compared to others, many CSOs mentioned state-funded, “pocket” organisations and CSOs established purposefully to get state grants, emphasizing that the process was not transparent or competitive and funding criteria were not available. Another obstacle to public funding is the mandatory audit requirement in case of passing the threshold, as not all public organisations are able to carry it out.

### **STANDARD 3: CSOS ENJOY A FAVOURABLE TAX ENVIRONMENT**

CSO grants and donations (including in the form of gratuitous services) are not taxed. Some tax benefits are provided for charitable projects through special procedure. However, taxes paid for income from economic activities are on the same level as for businesses, with lack of possibility to use the alternative taxation mechanism provided for business entities.

Under the RA legislation, assets, works and services received by non-profit organisations gratuitously are not profit taxed.<sup>156</sup> At the same time, non-profit organisations are not obliged to charge VAT on their goods and services in case their annual turnover from all types of activities does not exceed of 115 million AMD (about 219,300 EUR)<sup>157</sup> (before the Tax Code amendments adopted in June 2019, this threshold was equal to 58.35 million AMD (110,400 EUR)). Free supply of goods, work and services rendered by the non-governmental, charitable and religious organisations, are also VAT exempted.<sup>158</sup>

According to the Law on Charity, benefits for taxes, duties, and mandatory payments are provided to projects deemed as charitable by the authorised body in the manner prescribed by

154 After the adoption of the Law “On Making Amendments and Additions to the RA Law on “Government’s Structure and Activities” on May 8, 2019 this ministry was incorporated into the RA Ministry of Education, Science, Culture and Sport

155 Ministry of Sport and Youth Affairs, State Youth Policy, online grant system, <http://cragrer.am/>

156 RA Tax Code, 04.10.2016, article 108

157 RA Tax Code, 04.10.2016, article 59

158 RA Tax Code, 04.10.2016, article 64



law.<sup>159</sup> These benefits may include VAT exemption when buying goods or services, exemption from custom duty when receiving goods from abroad, etc. Government decision on charitable projects establishes the procedure for qualifying projects as charitable, for application, review and decision on determining the scope of goods, works, and services related to these projects or having significance for these projects. The procedures also regulate the registration and oversight of charitable projects, as well as the procedures for revising the charitable qualification.<sup>160</sup> Thus, the charitable qualification is provided for specific project through its duration but this status can be revised in case there were issues identified during the implementation, for example, false information in project documentation or legal infringements.<sup>161</sup> In case the project was given a charitable status, the organisation has to provide annual report on its activities to the authorised body. The authorised body that takes decisions and carries out other relevant functions as per Procedure of Qualifying and Registering Charitable Projects is the deputy prime minister, who should make the decision based on the recommendation of the Advisory Commission on Coordination of Charitable Projects.<sup>162</sup>

In case of implementing entrepreneurial activities, CSOs should pay profit tax, and – if their turnover exceeds 115 million AMD (219,300 EUR) – VAT in the same manner as business entities. In contrast to business entities, CSOs do not have the option of turnover tax. It should be noted that since the current law does not clearly specify the opposite, CSO economic activities might be subject to VAT payment regardless of their revenues, in case the income from donations and grants exceeds the threshold of 115 million AMD.

The research participants have different opinions about granting additional tax benefits to CSOs. Some consider the existing benefits to be insufficient and stress the need to have more, while others think that more benefits will cause abuses and damage the image of CSO sector. However, some have expressed an opinion that the exemption of procurement and services from VAT can be envisaged not only for donor-funded programs, but also for state funding. As for the benefits for entrepreneurial activities, CSOs propose first of all to set clear criteria for the concept of social entrepreneurship, on the basis of which these benefits can be introduced and applied in the future.

#### **STANDARD 4: BUSINESSES AND INDIVIDUALS ENJOY TAX BENEFITS FOR THEIR DONATIONS TO CSOS**

There is a tax deduction possibility provided for organisations donating to CSOs; however, the deduction is considered too small to boost charitable donations. No benefits are provided for individual donations.

According to the law, for determining the taxable base of profit tax payers (including companies, individual entrepreneurs, CSOs carrying out economic activities etc.), the gross income is deducted by the assets, work or services provided to non-profit organisations, but not more

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159 RA Law “On Charity”, 08.10.2002, article 16

160 RA Government Decision N 66-N “On Charitable Projects” 16.01.2003

161 Appendix 1 to the RA Government Decision N 66-N “On Charitable Projects” 16.01.2003, The Procedure of Qualifying and Registering Charitable Projects, article 28

162 Previously, the authorised body for charitable projects was RA Government Commission on Coordination of Charitable Projects, but it was changed in August 2018 in accordance with the Prime Minister Decree (RA Prime Minister’s Decree No 1111-A on Establishing the Charter and Composition of the Advisory Commission on Coordination of Charitable Projects and Revocation of the RA Prime Minister’s Decree No 205 of 14 March 2001, 21.08.2018)

than in the amount of 0.25% of the gross income of the reporting year.<sup>163</sup> There is no other tax privilege envisaged by law for individuals or legal entities that make donations.

According to the research, the current threshold for deducting taxable income does not instigate donations from companies, and in many cases companies even prefer not to use this benefit to avoid additional paperwork.<sup>164</sup>

Some of the participants of interviews and FGDs conducted within the framework of monitoring highlighted 1 or 2 percent tax law as a mechanism that promotes financial sustainability for CSOs and at the same time facilitates transparency and publicity of CSO activities. Such laws exist in a number of Central and Eastern European countries and allow individuals to pay one or two percent of their tax to any CSO upon their preference.<sup>165</sup>

#### **STANDARD 5: LEGISLATION AND POLICIES STIMULATE VOLUNTEERING AND ENSURE THAT THERE ARE INCENTIVES FOR ITS DEVELOPMENT**

Legislation defines the concepts of volunteers and voluntary work but provides few incentives to encourage volunteering.

The Law on Charity defines the concept of volunteers, according to which volunteers are individuals who perform gratuitous works for charity beneficiaries.<sup>166</sup> The Law on Charity also defines provisions on promoting volunteer activities by the state. Thus, the law defines the title of “Honourable Volunteer of the Republic of Armenia” and “Volunteer of the Year of the Republic of Armenia” awarded by the President of the Republic of Armenia.<sup>167</sup> Nevertheless, no information was obtained about granting these titles by the President of Armenia to any person.

According to the Labour Code, voluntary work and the work done for aid purposes cannot be considered illegal. At the same time, it is stated that the procedure and conditions for performing such works are defined by law.<sup>168</sup> The Law on Public Organisations defines the right and the procedure for involving volunteers in the public organisation. According to the law, if volunteer work hours exceed 20 hours per week, the organisation should sign a voluntary work contract with volunteers. However, it is forbidden to involve volunteers in the entrepreneurial activities of the organisation.<sup>169</sup>

Cross-border volunteerism is practiced in Armenia and many organisations send volunteers abroad and/or coordinate involvement of foreign volunteers in local CSOs. However, there is no legal regulation related to cross-border volunteerism. Generally, volunteer experience is acknowledged in CSOs and many companies, and some international universities take into account volunteer work experience in admission process. However, this is practiced mostly on private level and not promoted or regulated by the government.

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163 RA Tax Code, 04.10.2016, article 123

164 CSO Engagement In Policy-Making and Monitoring of Policy Implementation: Needs and Capacities, Yerevan, 2014; Capacity Building Needs Assessment for Civil Society Organisations in Armenia, 2016

165 “Draft laws on percentage allocation”, European Center of Non-Profit Law [http://ecnl.org/category/percentage-laws/?post\\_type=publications](http://ecnl.org/category/percentage-laws/?post_type=publications)

166 RA Law “On Charity”, 08.10.2002, article 9

167 RA Law on Charity, 08.10.2002, article 15

168 RA Labor Code, 09.11.2004, article 102

169 RA Law “On Non-Governmental Organisations”, 16.12.2016, article 17

In 2017, the Ministry of Labour and Social Affairs developed and presented a draft law “On Volunteerism and Volunteer work”, with specific regulations on volunteerism, volunteer rights and responsibilities, compensation for costs and other issues.<sup>170</sup> However, the draft was criticised by CSOs for its limiting provisions, as the obligations envisaged by the draft imposed additional burdens for CSOs involving volunteers, while providing the personal data of volunteers to state bodies was controversial in terms of right to privacy. Currently, this draft is suspended.

However, since the regulation of volunteerism is available only in the Law on Public Organisations, involvement of volunteers in foundations remains unregulated, and compensation for volunteer costs is deemed to be taxable income under the current legislation.

#### RECOMMENDATIONS FOR AREA 9

- Ensure transparency and competitiveness in state support through transparent, effective and participatory procedures. As a positive example, procedures of the former Ministry of Sport and Youth Affairs online grant system can be used, as they have been positively assessed by CSOs.
- The funding opportunities by all state agencies shall be published online, along with the information on funded projects, preferably in a single platform for better transparency and easy use.
- Provide clear and transparent regulations on possible mechanisms of CSO funding, including grants, subsidies, service contracts, and other types of funding, with clear differentiation between the purposes, procedures of funding allocation, selection, monitoring and reporting for each of these mechanisms.
- Dismiss the financial audit requirement for public organisations that received funding from public resources, and place the auditing responsibility on the state authority providing the funding or other relevant authority.
- Provide CSOs better taxation conditions in case of entrepreneurial activities, particularly allowing CSOs to use turnover tax option and clearly specifying the necessary conditions and criteria for benefits.
- Clarify the types of incomes included in the turnover that is considered for the VAT threshold, and take into account only the revenues from entrepreneurial activities.
- Provide meaningful tax incentives for individual and corporate donors to promote donations to CSOs.
- Introduce provisions for promoting volunteerism in the Labour and Tax Codes, as well as in the Law on Foundations and other legal acts as appropriate.

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<sup>170</sup> RA Draft Law on Volunteerism and Volunteer Work, <https://www.e-draft.am/projects/389/about>

## 4.10 State-CSO cooperation

### STANDARD 1: STATE POLICIES FACILITATE COOPERATION WITH CSOS AND PROMOTE THEIR DEVELOPMENT

Apart from laws covering public participation in decision-making, no special policy or strategy exists to regulate or promote state-CSO cooperation.

There is no special policy or strategy on state-CSO cooperation. Collaboration is primarily based around public participation opportunities set by various legal acts, including the Public Council, public councils adjacent to ministries and other agencies, as well as sectoral working groups.

In September 2014, the government adopted a “Concept of Institutional and Legislative Changes for Civil Society Organisations Development”, developed as a result of extensive discussions with CSOs. The concept included a number of enabling provisions for CSOs that served as a basis for the new law “On Public Organisations.”<sup>171</sup> The objective of the Concept is to ensure CSOs’ normal course of operation and sustainable development. In addition to the provisions further included in the law, the concept defines a number of other provisions that have not been implemented so far, such as establishing procedure for compensation of volunteer costs, providing online registration possibility to CSOs, defining strategy and procedures for CSOs’ financial support from the state budget, and creating an online database of state funding of CSOs. A timetable is attached to the Concept, which, apart from the deadlines, indicated the responsible state agencies and sources of funding, with actions scheduled to be completed by the end of 2015. Apparently, no Concept implementation monitoring was carried out by the state or at least there is no publicly available information on that.

FGD participants and interviewed experts have different opinions on whether a special concept or strategy for state-CSO cooperation is needed, but all of them basically agree that such cooperation is necessary. Many respondents find that in addition to CSO participation in the decision-making process, cooperation should also be manifested through joint efforts aimed to address various issues, including state delegation of some services and functions to CSOs. It was also suggested that CSOs are involved in the implementation of different sectoral strategies.

### STANDARD 2: THE STATE HAS SPECIAL MECHANISMS IN PLACE FOR SUPPORTING COOPERATION WITH CSOS

Various consultative bodies are established to support state-CSO cooperation, though a number of issues need to be solved to ensure their effectiveness and impact.

According to the Constitution of Armenia and the Law on the Public Council, the Public Council has been set up as a consultative body of the government. The main objectives of the Public Council include: to represent the interests of different strata of society in the policy-making and implementation of the policy; facilitate civil society participation in public administration processes, including presentation of recommendations to the government on priorities of civil society development policy; contribute to mutual trust, dialogue and partnership be-

171 Central and Eastern Europe and Eurasia 2014 CSO Sustainability Index, 2015 June

tween government, state administration bodies, and civil society; and identify public opinion on issues of public interest, including laws and other normative legal acts, state programs, strategies, concepts and their drafts.<sup>172</sup>

According to the law, there are 15 standing sectoral committees adjunct to the Public Council, while temporary commissions and working groups can be formed to discuss individual issues. The Public Council consists of 45 members, including 15 appointed by the government and 15 recruited from the various structures through rating-based selection. Subsequently, the remaining 15 members are nominated and elected by the present 30 members. The prime minister elects the Chairman of the Public Council from the list of 45 members and submits to the government for approval.<sup>173</sup> The research participants are sceptical about the activities of the Public Council, finding it a formality and in fact non-effective structure

According to the government's decision adopted in 2016, public councils adjunct to the ministries should be set up to ensure civil society participation in the implementation of the objectives and functions of the ministries, and corresponding item was added in the ministries' charters.<sup>174</sup> In May 2018 new exemplary charter for public administration bodies was adopted, and in December 2018 the clause pertaining to public councils in the ministries was restated in this charter.<sup>175</sup> According to a recent research in this field, most of the ministries (13 out of 18) had public councils with regular meetings held. At the same time, this research identified a number of issues related to councils' effectiveness, accountability, access to information on the work performed, and the activity of the board members. For example, not all annual reports of councils' activities are published, and the meetings of the councils take place less often than prescribed by law.<sup>176</sup>

The Ministry of Labour and Social Affairs has initiated a national social co-operation agreement to promote the role of state, community and non-governmental organisations and individuals in the process of establishment of integrated social services.<sup>177</sup> The organisations and individuals which joined the agreement have mobilised in "National Level Support Network". The provisions on the Network and the agreement are set in the Law on Social Assistance, which defines the concept of the support network, the principles of cooperation on national and local levels.<sup>178</sup> The support network unifies 47 CSOs, and at the first meeting of the Network in 2016, the Coordinating Board was elected. However, no sessions of the support network have apparently taken place after 2017.<sup>179</sup> Support networks have also been formed on the regional level, but it can be assumed that they are inactive as well, as it is difficult to find any information on their activities at the websites of regional administrations.

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172 RA Law on Public Council, 07.03.2018, article 2

173 RA Law on Public Council, 07.03.2018, article 5

174 RA Government Decision No 337-N "On Amendments and Additions to a Number of Decisions by the Government of the Republic of Armenia", 31.03.2016

175 RA Government Decision No 1552-L "On Amendment to the Decision N 624-L of the Government of the Republic of Armenia dated May 22, 2018", 27.12.2018

176 Monitoring report on unified governance model for policy development in Armenia, NGO Center, Araza NGO, 2017

177 Invitation to join the national agreement, RA Ministry of Labor and Social Affairs, [http://www.mlsa.am/?page\\_id=2841](http://www.mlsa.am/?page_id=2841)

178 The RA Law on Social Assistance, 17.12.2014

179 National agreement/protocols, RA Ministry of Labour and Social Affairs of the Republic of Armenia, [http://www.mlsa.am/?page\\_id=10438](http://www.mlsa.am/?page_id=10438)

Special joint working groups have also been set up in the framework of a number of international initiatives, including Sustainable Development Goals, Open Government Partnership, Extractive Industries Transparency Initiative. Public councils are also established on regional and community level. FGD participants were generally sceptical about these councils, noting that they were either not functioning or served the purposes of the particular authorities due to being comprised of their close or affiliated persons. Nevertheless, several examples of positive experiences of the councils operation at the community or regional level were also pointed out.

The next mechanism of cooperation is the CSO observer teams. Based on the requirement of the law “On Detention of Arrested and Detained Persons”<sup>180</sup> and the order of the RA Minister of Justice,<sup>181</sup> a group of public observers has been formed to implement public oversight in penitentiary institutions and bodies of the Ministry of Justice. The members of group are representatives of CSOs working in the area of human rights protection, and are defined by the minister’s order. The group has an access to penitentiary institutions with the purpose of protection of the rights of detainees and persons under custody, monitoring the working and living conditions of detainees in penitentiary institutions, and initiation of amendments and additions to the penitentiary legislation, when necessary. Despite some obstacles in the course of its activity, this observer group is mentioned by an expert as a successful example of collaboration as the group is active and the issues raised in the annual and extraordinary monitoring reports are taken into account by the government with solutions provided where possible.<sup>182</sup>

Among the online survey respondents, 55 noted that they participated in the work of any consultative body; however, diverse opinions were presented on the transparency, accessibility, and impact of these bodies in the decision-making process. Several CSOs presented successful examples of public councils, while others mentioned that the councils have a formalistic nature. As mentioned by a CSO’s representative, “The consultative bodies are active in case there are professional CSOs with in-depth, evidence-based knowledge involved. In other cases, basically no proposals are made, and it becomes a hearing rather than joint work.” Similar opinions were presented by some experts: as indicated in the section on Right to Participation in Decision-Making, in case of councils, effectiveness of the body often depend on the experience and skills of CSOs. One expert recommends revising the approach towards the activities of councils through developing a strategy for their work, setting working directions, and not limit it with communication from meeting to meeting. Some gaps are observed in terms of CSO engagement criteria, as it is not clear how members of various councils are invited or elected.

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180 RA Law “On Detention of Arrested and Detained Persons”, 06.02.2002, article 47

181 Order of RA Minister of Justice No. KH-66-N, 18.11.2005

182 For more details and reports on the activities of the Monitoring Group, see the website of the Group of Public Monitors Implementing Supervision over the Criminal-Executive Institutions and Bodies of the Ministry of Justice of RA, <http://www.pmg.am/en/>

## RECOMMENDATIONS FOR AREA 10

- Fully implement the existing institutional mechanisms of cooperation through increasing the effectiveness of public councils and other consultative bodies, improving their transparency, enhancing public monitoring mechanisms.
- Jointly with civil society sector, plan and implement measures towards more enabling environment for CSOs, including more beneficial taxation, larger and more transparent state funding, meaningful participation of CSOs in the development, implementation and monitoring of public policies, and other provisions following the findings of the current report.



# V. CONCLUSIONS & RECOMMENDATIONS

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Based on the issues most often raised by the participants of monitoring research, as well as the analysis of indicators included in the CSO Meter tool, the authors highlight a number of key recommendations that have strategic importance for CSO enabling environment in Armenia.

*CSO financial sustainability:* CSOs in Armenia have access to a variety of funding sources, and they can use fundraising methods without excessive administrative and reporting requirements and restrictions. However, the financial sustainability of CSOs continues to be weak, and usage of local funding sources is at a low level. Thus, the state should enforce a number of measures to encourage individual and business donations and boost CSO engagement in economic activities. These measures may include:

- More advantageous tax incentives for individual and corporate donors;
- Preferential tax treatment for CSO economic activities;
- Promoting volunteerism;
- Larger scope and improved effectiveness and transparency of state funding, including through establishment of institutional mechanisms for outsourcing CSO services.

*Participation in Policy-Making and Implementation:* Armenia has developed a variety of advanced tools and platforms to ensure civic participation in decision-making processes, including through electronic means. The legislation provides enabling provisions on access to information both through inquiries and pro-active publication of relevant information on the websites of state agencies. Participation in local self-government is also highly prioritised by law. At the same time, the practical enforcement of participation needs further improvement. The impact of participation in policy-making stage is sometimes questionable, while there are few mechanisms facilitating CSO participation in policy implementation and monitoring stages. Thus, it is recommended to take the following steps in this direction:

- Introducing institutional mechanisms for engaging CSOs in the policy implementation and monitoring, including through state contracting;
- Mandatory consultation in the early stages of decision-making to allow meaningful participation of professional CSOs experienced in relevant public policy areas.
- Increased usage of offline participation tools such as public hearings, expert discussions, and surveys.

Based on the findings of the monitoring report, it is highly recommended to develop a strategic roadmap towards development of enabling civil society environment in Armenia. The roadmap should include milestones of improved tax environment, equitable approach to CSOs and businesses in registration process, more effective CSO engagement in decision making,

tackling hate speech and stigmatisation of CSOs and other relevant objectives. This document should be duly discussed and co-designed with civil society stakeholders.

# VI. ANNEXES

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## 6.1. Annex 1 - Sources of Information

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#### **LIST OF INTERVIEWED EXPERTS**

Arpine Hakobyan, NGO Center for Civic Development NGO

Artur Sakunts, Helsinki Citizens' Assembly Vanadzor Office

Ashot Melikyan, Committee to Protect Freedom of Expression

Avetik Ishkhanyan, Helsinki Committee of Armenia

Maro Matosyan, Women's Support Center

Naira Arakelyan, Armavir Development Center

Nune Pepanyan, Center for Legislative Development and Legal Research Foundation

Suzanna Soghomonyan, Armenian Lawyers' Association

