

CSO METER

A compass to conducive
environment and
CSO empowerment

ARMENIA 2022
COUNTRY REPORT

YEREVAN





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CSO Meter 2022: Armenia Country Report

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The mission of Transparency International Anticorruption Center (TIAC) is to promote good governance in Armenia by reducing corruption and strengthening democracy.

The European Center for Not-for-Profit Law Stichting (ECNL) is a leading European resource and research centre in the field of policies and laws affecting civil society. ECNL creates knowledge, empowers partners and helps set standards that create, protect and expand civic freedoms.

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ABBREVIATIONS & ACRONYMS

AI	Artificial intelligence
AMD	Armenian Dram
CSO	Civil Society Organisation
CSTO	Collective Security Treaty Organization
EaP	Eastern Partnership
ECNL	European Center for Not-for-Profit Law
EU	European Union
EUR	Euro
GDP	Gross Domestic Product
LGBTQ+	Lesbian, Gay, Bisexual, Transgender, Queer or Questioning, Intersex, Asexual, Ally, etc.
LSGB	Local self-government body
NGO	Non-Governmental Organisation
NSS	National Security Service
OGP	Open Government Partnership
OSF	Open Society Foundations
RA	Republic of Armenia
SLAPPs	Strategic lawsuits against public participation
SRC	State Revenue Committee
TIAC	Transparency International Anticorruption Center
UBO	Ultimate beneficial owner
UN	United Nations
UNDP	United Nations Development Programme
USAID	United States Agency for International Development
USD	United States Dollar
VAT	Value Added Tax

I. EXECUTIVE SUMMARY

Country context and important trends relevant to the civil society environment

In 2022, Armenia continued to experience the political tension and security issues that have followed the 44-day war in Artsakh (Nagorno-Karabakh) in 2020. The unresolved issues of displaced persons, periodic violations of the ceasefire along the line of contact in Artsakh (Nagorno-Karabakh) and borders of Armenia, and the continued presence and aggression of Azerbaijani troops on Armenian territory were accompanied by mediated negotiation efforts, giving hope for establishing peace in the region.

On 13 September 2022, Azerbaijan initiated a large-scale attack on the south-eastern part of Armenia, shelling civilian infrastructure and targets in Armenian communities and occupying further territory of sovereign Armenia in addition to about 40 square kilometres captured in May 2021.¹ This resulted in more than 200 victims (including civilians), hundreds of destroyed buildings, 7,600 temporarily displaced persons, and dozens of prisoners of war on the Armenian side.² The attack affirmed the concerns over Azerbaijan's aspirations on Armenian territory and raised further doubts over the feasibility of any peace agreement, as well as uncertainty on the future of Armenia's territorial integrity and safety in civilians in Artsakh (Nagorno-Karabakh). Armenia appealed to the international community, including the UN Security Council and the Collective Security Treaty Organization (CSTO) to address the hostilities and to call Azerbaijan to return its military to its original positions.³ Armenia's strategic partner, the Russian Federation, did not provide the expected assistance, which gave rise to anti-Kremlin sentiments and protests among the Armenian public.

Following Azerbaijan's offensive in September 2022, many civil society organisations (CSOs) in Armenia were forced to revisit their priorities and concentrated on issues of national security and the protection of those who had suffered from Azerbaijani aggression. CSOs working in the south-eastern region of Armenia (which became the

¹ Azerbaijan's military provocations since the end of the Second Artsakh War, Karen Harutyunyan, CivilNet, 20 September 2022, <https://www.civilnet.am/en/news/675910/a-timeline-of-azerbaijans-military-provocations-since-the-end-of-the-second-artsakh-war/>.

² Ad-Hoc Public Report on the Consequences of Azerbaijani Military Attack on the Republic of Armenia September 2022 (updated), The Human Rights Defender of Armenia, <https://ombuds.am/images/files/bb0ed8808617aa8b63c6a52e2891c7b3.pdf>.

³ PM Pashinyan chairs Security Council session, The Prime Minister of the Republic of Armenia 13.09.2022, <https://www.primeminister.am/en/press-release/item/2022/09/13/Nikol-Pashinyan-Security-Council-meeting/>.

frontier with Azerbaijani-controlled territory after the 44-day war) focused more on humanitarian assistance than on development programmes. Advocacy and watchdog CSOs tended to refrain from protest actions, in the context of the challenges faced by the country and the continuous political tension fuelled by opposition rallies and demands for the prime minister's resignation.⁴ The protests were mainly driven by dissatisfaction with the results of the peace negotiations which had led to many concessions from the Armenian side.

The Russian invasion of Ukraine in February 2022 had a significant political impact for Armenia due to it changing the geopolitical situation in the region and further complicating the peace negotiations with Azerbaijan. The shift in world attention towards the conflict in Ukraine and the seeking of alternative sources of oil by European countries allegedly allowed a more tolerant attitude towards the Azerbaijani invasion of Armenian-held territory by such countries. The Ukraine war also had economic consequences for Armenia, as tens of thousands of Russian citizens (most of them IT professionals) relocated to Armenia to live and work.⁵

Key developments in the civil society environment

The overall score for the CSO environment in Armenia did not change in 2022 as compared to 2021 (4.8 out of 7). The top three areas with the highest scores remain the same compared to 2021: Freedom of Association (5.7), Access to Funding (5.4), and Freedom of Peaceful Assembly (5.3), while the areas with the lowest scores are: State-CSO Cooperation (4.0), State Support (4.1), Digital Rights (4.5) and State Duty to Protect (4.6).

Several important developments were noted in some of the areas analysed. Though the overall score in the area of Freedom of Peaceful Assembly remained the same as in 2021 (5.3), negative trends in practice have been registered in 2022, including unjustified assembly dispersals, incidents of violence, and a lack of effective sanctions applied towards police officers who have violated the law.

The area of Right to Participation in Decision-Making noted positive developments though the area score has not changed from 2021 (4.8). Two documents adopted by the Government in 2022, the Strategy of Public Administration Reform and the new OGP Action Plan 2022-2024, among other themes, have addressed the issues of

⁴ In April 2022, the members of parliament from the two opposition fractions announced that they will boycott the parliament sessions and noted about their intention to withdraw the Pashinyan's regime through the street actions. They did not attend parliamentary sessions and committee meetings. The boycott continued during the autumn sessions of the parliament.

⁵ Russians in Armenia, looking for a normal life, OBC Transeuropa, 08 June 2022, <https://www.balkanicaucaso.org/eng/Areas/Armenia/Russians-in-Armenia-looking-for-a-normal-life-218331>; Armenian government to soften requirements for Russian citizens to stay in Armenia for longer periods – minister, Arca.am, 07 July 2022, http://arka.am/en/news/society/armenian_government_to_soften_requirements_for_russian_citizens_to_stay_in_armenia_for_longer_period/.

participation, planning steps and mechanisms for better engagement in decision-making, state communication, assessment of compliance to freedom of information provisions, etc. Positive trends have been noted in the legislation concerning freedom of information, including ratification of the Convention on Access to Official Documents and an increase in fines for failure to provide responses to enquiries.

An improvement was observed in the area of Freedom of Expression (4.8 as compared to 4.7 in 2021), due to the adopting of a number of legal amendments addressing access to information and tackling hate speech. In addition, the government committed to developing a framework for media reforms in collaboration with civil society, and the controversial legal provision on criminalising grave insult was removed. At the same time, several new media-related drafts were initiated that met with criticism from media organisations.

The overall score of the area of Right to Privacy also improved (4.9 as compared to 4.8 in 2021). Due to capacity-building activities implemented for state servants on personal data management, as well as fewer incidents of data leaks in 2022, practice in privacy protection slightly improved. At the same time, amendments to the Law on Operational Intelligence Activity initiated by the Government could potentially bring more restrictions in this area.

The area of State Duty to Protect saw a decrease in its overall score (4.6 as compared to 4.7 in 2021) and remains among the areas with the lowest scores, mostly due to the challenges encountered in practice. As in previous years, protection of CSOs and their affiliated persons is not sufficient. CSOs working in sensitive areas were subjected to harassment and threats, and several organisations and activists were engaged in lawsuits by third parties, negatively impacting their activities and resources. On the positive side, environmental CSOs succeeded for the first time in bringing a lawsuit to court to defend public interests .

In the area of State Support, the lack of an enabling legal framework on CSO taxation and tax benefits for donors remained the main challenges endangering CSOs' financial sustainability. The electronic platform for state grant applications was functional throughout the year, but many CSOs find the platform complicated and marred by technical problems, even though the Ministry of Finance provided assistance based on CSOs' requests.

In the area of Digital Rights, the situation has slightly improved due to the steps taken by the Government to promote digitalisation and internet access, as well as due to the initiatives by CSOs on improved media literacy and fact-checking.⁶

⁶ The reason for significant increase of the overall score in area 11. Digital rights compared to 2021 (from 4.2 to 4.5) was mainly a result of the process of re-scoring of this area in all countries. This is considered still an emerging area for which the qualitative understanding and assessment is evolving.

Key priorities

In 2022, the Government has initiated some steps in improving the key priorities identified in the 2021 CSO Meter country report, particularly in relation to participation, access to information, personal data management, and freedom of expression. However, these changes are mainly on the level of regulations, while their implications in practice are yet to be seen. The challenges for CSOs in relation to financial sustainability, meaningful participation, and insufficient state protection persist and require measures to be addressed. Considering this, to improve the CSO environment in the coming period, the Government and the relevant institutions, together with CSOs and all other affected stakeholders, should prioritise the following ten recommendations out of total number of 32 recommendations in 11 areas (five of these remain in place from 2021):

1. That the Government develops and implements a comprehensive strategy on the civil society sector through joint work with CSOs and international organisations to provide a more enabling environment for CSOs;
2. That the Ministry of Finance specifies the type of income included in the turnover serving as a basis for the VAT threshold, so that only income from economic activities is taken into account, as well as to ensure that non-profit activities are not treated as economic activities;
3. That the state utilises the available institutional mechanisms of participation and ensures meaningful participation through engaging CSOs in the early stages of policy development, addressing the drawbacks of the e-draft platform, providing sufficient time for consultations, organising more frequent face-to-face consultations (including in the regions), and considering and incorporating CSO suggestions to the maximum possible extent;
4. That the Parliament sets mechanisms for mandatory public consultation for the drafts produced by members of parliament and for CSO engagement in the early stages of legal drafts;
5. That the Government widens CSO engagement in policy implementation and monitoring stages through setting institutional mechanisms and ensuring engagement after the adoption of laws, policies, and strategies;
6. That the Government maintains its commitment to consulting with CSOs and media organisations on media-related legislation in its early stages and applies a comprehensive approach to media reforms based on the concept jointly-developed with civil society;
7. That the Parliament makes the necessary legislative changes to expand the possibilities for CSOs to represent public interests in the courts on cases within the scope of their goals and ensures that they can use this right in practice through alleviating any excessive requirements and related bureaucratic procedures;
8. The state should provide adequate protection from hate speech and attacks targeting CSOs, including through establishing an anti-discrimination body, issuing

public statements, and ensuring proper investigation of attacks against CSOs and activists within a reasonable timeframe, as well as through taking legislative and practical measures against strategic lawsuits against public participation (SLAPPs);

9. That the Ministry of Justice and the State Register implement awareness-raising activities and prepare relevant guidelines on the new requirement for CSOs to disclose their ultimate beneficial owner (UBO), as well as to dismiss the fees for updating the information on UBOs; and
10. That the Government, particularly the Ministry of Finance, and the Parliament create a more favourable tax environment to improve CSOs' possibilities to seek funding and in-kind support from diverse sources, including from individual and business donations and direct entrepreneurship activities.

II. ARMENIA – IN NUMBERS

Population: 2,961,000 (as of 1 January 2022)⁷ | GDP per capita: 4,670 USD (2021)⁸ | Number of CSOs:⁹ 5,982 public organisations; 1,581 foundations | CSOs per 10,000 inhabitants: 25.5 | Registration fee for a CSO: 10,000 AMD (about 25 EUR)¹⁰ | Freedom in the World 2022: 55/100 (Partly Free)¹¹ | World Press Freedom Index 2022: 68.97 (51st out of 180 countries)¹²



Country score: 4.8
 Legislation: 5.2
 Practice: 4.4 ↑

The scores range from 1 to 7, where 1 signifies the lowest possible score (extremely unfavourable – authoritarian - environment) and 7 signifies the highest possible score (extremely favourable environment).

Areas	Overall	Legislation	Practice
Freedom of association	5.7	5.8	5.6
Equal treatment	4.9	5.0	4.8
Access to funding	5.4	5.8	4.9
Freedom of peaceful assembly	5.3	5.7	4.9
Right to participation in decision making	4.8	5.3	4.3
Freedom of expression	4.8 ↑	5.2 ↑	4.3
Right to privacy	4.9 ↑	5.8	3.9 ↑
State duty to protect	4.6 ↓	5.3	3.9 ↓
State support	4.1	4.2	3.9
State-CSO cooperation	4.0	4.3	3.6
Digital rights	4.5 ↑	4.9	4.0 ↑

The arrows indicate improvement or deterioration compared to last year's scores.

⁷ Demographics, Government of the Republic of Armenia, <https://www.gov.am/en/demographics/>.

⁸ GDP per capita - Armenia, The World Bank, <https://data.worldbank.org/indicator/NY.GDP.PCAP.CD?locations=AM>.

⁹ Report on the activities of the State Registry of Legal Persons of the Ministry of Justice carried out in 01.01.2022-30.09.2022, 01.10.2022, https://www.moj.am/storage/files/legal_acts/legal_acts_6539979232921_stat2022-9_1.pdf.

¹⁰ 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>.

¹¹ Freedom in the World 2022, Countries and Territories, Freedom House, <https://freedomhouse.org/countries/freedom-world/scores>.

¹² Reporters Without Borders, 2022 World Press Freedom Index, <https://rsf.org/en/index>.

III. FINDINGS

3.1 Freedom of Association

Overall score per area: **5.7/7**

Legislation: **5.8/7**

Practice: **5.6/7**

Freedom of association is guaranteed by legislation in Armenia. CSOs do not face significant difficulties during their registration and operation. There is no requirement to register as a legal person for civic initiatives, and no limitations on associating online. Public organisations and foundations are required to submit annual reports on their budgets and activities. Sanctions are set by law for CSOs that fail to comply with legal requirements. A few CSOs have been subject to fines based on their non-compliance with the reporting procedures set by law.

The scores in the area of Freedom of Association remained the same as in 2021. The recommendation from the previous CSO Meter report on better awareness-raising among public organisations on the new annual reporting requirement was partly addressed as, throughout 2022, the State Revenue Committee (SRC) continued communication with and support to CSOs to address any gaps and difficulties in the process of reporting. It is recommended that the electronic database of CSO annual reports is modernised for expanded use. The existing recommendations on providing more guidance and flexibility throughout the registration process and ensuring the availability of online registration remain in place.

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

In Armenia, the law allows everyone to establish, join or participate in a CSO. The Constitution includes a provision on freedom of association, which may be restricted only by laws aimed at state security, protecting public order, health and morals or the basic rights and freedoms of others.¹³ According to the Civil Code, non-profit organisations include public associations and foundations, while public associations can register as public organisations, religious organisations, political parties or trade unions. For the purposes of this report, “registered CSOs” in Armenia refers to public organisations and foundations.

¹³ Constitution of the Republic of Armenia, 05.07.1995, amended on 06.12.2015, Article 45, <https://www.arlis.am/documentview.aspx?docID=102510>.

A public organisation can be founded by two or more individuals and/or legal persons. Organisations such as political parties, religious organisations, or trade unions cannot be founders or members of a public organisation.¹⁴ Foundations can be established by one or more individuals and/or legal persons.¹⁵ The relevant legislation does not impose any restrictions on the residency, nationality, or citizenship of founders, neither for foundations nor for public organisations. Judges cannot engage in the management of non-profit organisations.¹⁶

In practice, there are no obstacles for establishing or registering an organisation or joining a CSO. The registration procedure includes mostly formal checking of compliance of documentation with the legal requirements. Individuals and organisations can also freely associate without a need for formal registration.

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

The CSO registration procedure established by law is simple, quick, and inexpensive. The State Register Agency of Legal Entities of the Ministry of Justice is responsible for the registration of legal entities in Armenia. The state fee for the registration of CSOs is 10,000 AMD (around 25 EUR). The timeline for registration is up to 10 working days. The registration of a public organisation takes two working days in cases where the founders have used a sample charter and other documents.¹⁷ The fee for registering changes in the charter and other information subject to registration is 10,000 AMD (around 25 EUR), while the fee for changing the data on a CSO's executive head is 5,000 AMD (around 12.5 EUR).¹⁸ Online registration is not yet available for CSOs. According to the State Register Agency, software updates are currently in process and a new electronic system allowing electronic registration will be launched in 2024.¹⁹

The list of documents required for registration is defined by law and published on the website of the State Register Agency.²⁰ Registration can be denied if the procedure for establishment was not followed, the necessary documents were not submitted or are not compliant with the law, or if the organisation's proposed name is not compliant

¹⁴ RA Law on Public Organisations, 16.12.2016, last amended 23.03.2022, Article 10, <https://www.arlis.am/DocumentView.aspx?docid=161509>.

¹⁵ RA Law on Foundations, 26.12.2002, last amended 23.03.2022, Article 12, <https://www.arlis.am/documentview.aspx?docid=161513>.

¹⁶ RA Judicial Code, 07.02.2018, last amended 06.07.2022, Article 5, <https://www.arlis.am/DocumentView.aspx?docid=167184>.

¹⁷ RA Law on Public Organisations, 16.12.2016, Article 14.

¹⁸ RA Law on State Duty, 27.12.1997, last amended 14.09.2022, Article 16, <https://www.arlis.am/DocumentView.aspx?docid=169398>.

¹⁹ The information was provided on 27.10.2022 by the State Register in response to the inquiry by TIAC.

²⁰ 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>.

with the legal requirements.²¹ In particular, the law requires CSOs to mention the area of their activities in their name,²² and does not allow the use of the name of an existing organisation, including those dissolved within the preceding year.²³

In practice, there are no reported cases of any CSOs not being able to register. According to information provided by the State Register Agency, in January-September 2022 there were eight cases of rejection out of 945 applications for CSO registration, with the possibility for applicants to reapply following the required corrections to the application package.²⁴

CSOs note that the staff of the State Register Agency is responsive and collaborative, providing timely feedback and consulting, where necessary, on the corrections to be made in the applicant's charter and other registration documents so that there is no cause for rejection. However, regional CSOs note a lack of sufficient capacity and knowledge among the regional representatives of the State Register Agency.²⁵

Though the legislation provides flexibility for CSOs to define their governance structure, membership criteria, and other regulations of the charter, CSOs note that the State Register Agency staff sometimes urges applicants to adapt the statements of their charters to the sample template, and often recommends stylistic changes to ensure the wording is the same as in the sample. Sometimes CSOs insist on the original wording and are able to provide justifications that are acknowledged by the State Register Agency, but often they prefer to follow the recommendations to make the process quicker and smoother. The sample documents provided by the Government facilitate the process of preparing the registration package and allow applicants to register quickly. However, CSOs suggest the introduction of alternative sample templates that allow other governance structures. A possible solution for allowing flexibility when using a sample charter (technically possible once electronic registration is available) would be a template providing optional selection of membership type, governance, governance body meeting frequency, availability of membership fee, and other components of the charter. In this case, CSOs will be able to select the most preferable options and still keep the standard formulations necessary for quick processing of the application.²⁶

The voluntary dissolution of CSOs implies several bureaucratic and financial challenges. The fee for starting the process of registering dissolution is 20,000 AMD

²¹ RA Law on State Registration of Legal Entities, Separate Subdivisions of Legal Entities, Institutions and Private Entrepreneurs, 03.04.2001, last amended on 09.06.2022, Article 36, <https://www.arlis.am/DocumentView.aspx?docid=164930>.

²² RA Civil Code, 05.05.1998, last amended 15.06.2022, Article 58, <https://www.arlis.am/documentview.aspx?docid=165457>.

²³ RA Law on Public Organisations, 16.12.2016, Article 6; RA Law on Foundations, 26.12.2002, Article 5.

²⁴ The information was provided on 27.10.2022 by the State Register in response to the inquiry by TIAC.

²⁵ Interviews and focus group discussions, September-October 2022.

²⁶ Advisory Board meeting, 25.11.2022

(50 EUR), and several documents from various agencies must be collected for the dissolution process. Many CSOs that are not active prefer not to engage in the dissolution process to avoid the related costs and paperwork. As a result, the current number of registered CSOs does not reflect the true number of active organisations and this creates additional difficulties, for example in reaching out to these organisations as part of the awareness-raising activities proposed by this report.

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

According to the law, CSOs are free to determine their objectives, and there are no restrictions on their area of operation. Public organisations define their objectives in their charter, which must not repeat the objectives of other types of associations (religious organisations, trade unions or political parties).²⁷ The legal definition of ‘foundation’ includes an indication of pursuing “social, charitable, cultural, educational, scientific, health, environmental and (or) other charitable purposes.”²⁸

The Law on Public Organisations mentions that these organisations can become a member of international and foreign non-profit organisations, engage in international relations and establish subdivisions in other countries.²⁹ The Law on Foundations also sets out the right for foundations’ membership of international and foreign non-governmental organisations (NGOs).³⁰

There are no practical obstacles imposed by the state that hinder a CSO’s ability to engage in legally-allowed areas of operation.

Standard IV. Any sanctions imposed are clear and consistent with the principle of proportionality and are the least intrusive means to achieve the desired objective.

Gradual sanctions are set by law for CSOs that fail to comply with legal requirements, including suspension from the register for gross violations. However, some of the grounds for sanctions lack clarity.

Registered CSOs can be subject to administrative liability if they fail to provide a report, as well as in cases of carrying out activities that are not in line with the goals specified in their charters. The law lacks specificity as to what can be considered as non-compliance. The body authorised for CSO oversight and application of sanctions is the SRC. Penalties for violations are applied in stages with thirty-day intervals and include, in the first instance, a warning to the organisation’s head, secondly, a fine of 50,000 AMD (around 125 EUR), and, lastly, a fine of 200,000 AMD (around 500

²⁷ RA Law on Public Organisations, 16.12.2016, Article 3.

²⁸ RA Law on Foundations, 26.12.2002, Article 3.

²⁹ RA Law on Public Organisations, 16.12.2016, Article 28.

³⁰ RA Law on Foundations, 26.12.2002, Article 18.

EUR).³¹ The grounds for suspension from the register of a public organisation include a substantial or gross breach of the law during foundation or operation of the organisation. If these grounds are not removed within one year, the organisation is subject to dissolution. In addition, the grounds for involuntary dissolution include activities aimed at overthrowing constitutional order, the incitement of hatred or preaching violence or war.³² In such cases, the decision on dissolution is made by the court on the basis of a properly-justified request by the authorised body. The grounds for involuntary dissolution of foundations include multiple, substantial or gross violations or fraud during their operation or establishment, insufficiency of a foundation's resources for its operations, noncompliance with its charter goals, the impossibility of achieving its stated goals, endangering state security or public safety, public order, public health and morals, or the rights and liberties of others.³³ Dissolution of foundations, whether voluntary or involuntary, can take place only by a decision of the court.

According to legislative amendments adopted in 2021, starting in 2023, registered CSOs will be subject to reporting their UBOs.³⁴ The sanctions for failure to report or non-compliance with the reporting procedures range from fines from 30,000 to 100,000 AMD (75 to 250 EUR),³⁵ up to involuntary dissolution of the CSO by court decision in cases of not declaring for over three years³⁶ (see also Area 8: State Duty to Protect). Making the first report on UBOs is free of charge and mandatory for all organisations, while the fee for registration of any change in this information is 10,000 AMD (around 25 EUR), the same fee as in the case of registering other changes.³⁷

According to the SRC, from January-September 2022, it issued fines of 50,000 AMD (around 125 EUR) to 26 public organisations and three foundations that did not fulfil the reporting obligation within the timeline set out in the warning notice, and fines of 200,000 AMD (around 500 EUR) for six public organisations and one foundation that did not publish reports following the first issuing of a fine. No sanction was applied to public organisations for activities contradicting their charter goals.³⁸ There were no

³¹ RA Code on Administrative Offences, 06.12.1985, last amended 14.09.2022, Article 169.18, 169.26, 169.27, <https://www.arlis.am/documentview.aspx?docid=169394>.

³² RA Law on Public Organisations, 16.12.2016, Article 32.

³³ RA Law on Foundations, 26.12.2002, Article 34.

³⁴ Circle of persons submitting real beneficiary declarations has been expanded – Who needs to submit a declaration and in what time period?, Ministry of Justice of the Republic of Armenia, 11.10.2021, <https://www.moj.am/en/article/2982>

³⁵ RA Code on Administrative Offences, 06.12.1985, Article 169.29.

³⁶ RA Law on State Registration of Legal Entities, Separate Subdivisions of Legal Entities, Institutions and Private Entrepreneurs, 03.04.2001, Article 60.5.

³⁷ RA Law on State Duty, 27.12.1997, last amended 14.09. 2022.

³⁸ The information was provided on 24.10.2022 by the SRC in response to the inquiry by TIAC.

cases of involuntary dissolution of CSOs registered by the State Register in January-September 2022, and fourteen cases of dissolution based on CSOs' applications.³⁹

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

The law prohibits state bodies and local self-government bodies (LSGBs) and/or officials from interfering or obstructing the legitimate activities of public organisations.⁴⁰ For foundations, officials might be involved in their governing bodies in cases where the foundation is established through the decision of the government or an LSGB.⁴¹

The authorised body responsible for the oversight of public organisations' and foundations' compliance with legal requirements is the Department for Non-Profit Organisations' Oversight of the SRC. Its functions include raising awareness of non-profit organisations, receiving reports and other documents prescribed by law, reviewing these documents, and assessing their compliance with the law. Based on the results of legal compliance assessments, the Department can initiate administrative proceedings, provide recommendations on the removal of violations, and initiate the suspension or dissolution of an organisation through a court application.⁴² There are no rules or guidelines on the scope and criteria for monitoring and inspection of CSOs by the Department since the Department does not have powers to organise on-site inspections, and its monitoring functions are limited to documentation review.

Both public organisations and foundations provide annual reports on their activities and budget, which are published on the website of the SRC in PDF format.⁴³ The requirement for annual reports for all public organisations introduced in 2020 was implemented in 2021, and in 2022 a larger number of organisations were aware of this requirement and provided reports.⁴⁴ Though the law does not provide for any exceptions, as of 1 October 2022, in practice no sanctions are applicable to organisations that fail to submit an annual report in cases where they did not have any financial transactions in the reporting year. The Department continued its

³⁹ The information was provided on 27.10.2022 by the State Register in response to the inquiry by TIAC.

⁴⁰ RA Law on Public Organisations, 16.12.2016, Article 9.

⁴¹ RA Law on Foundations, 26.12.2002, Articles 10 and 12.

⁴² Charter of the Department for Non-Profit Organisations' Oversight adopted by the Order No 137-L of the Chair of RA State Revenue Committee, 04.03.2019, https://www.petekamutner.am/Shared/Documents/src/_as/Statutes/hr_hhpekn_2019_137_l.pdf.

⁴³ Reports of non-profit organisations, RA State Revenue Committee, https://www.petekamutner.am/Reports_vh.aspx.

⁴⁴ According to the information provided by SRC on 24.10.2022, 2061 registered public organisations provided their annual report as of 01 October 2022 (as compared to 1,666 in the similar period of 2021).

meetings with public organisations and foundations (also in collaboration with CSOs) to address their questions on the reporting procedures.⁴⁵

In practice, the reporting requirements are considered to be simple and not burdensome. However, many CSOs think that this is an unnecessary formality and does not significantly contribute to the transparency of the sector.⁴⁶ The information on CSO projects is usually available on the websites of developed CSOs, while the reporting database of the SRC website has limited search filters and lacks an open data format.

Specific recommendations in this Area are as follows:

- That the State Register publishes frequently asked questions and answers on the registration process, including the main principles related to the organisation's name, goals and objectives, other provisions required by law, as well as prepares a more flexible standard template charter for registration purposes;
- That the Ministry of Justice provides the opportunity for CSOs to register and update their registration data online; and
- That the SRC modernises the electronic database of CSO reports, providing search possibilities based on the region, area of activity and other criteria, as well as promotes its usage, particularly through posting banners and/or quick links on the homepage of the SRC website and other relevant state websites.

3.2 Equal Treatment

Overall score per area: **4.9/7**

Legislation: **5 / 7**

Practice: **4.8/7**

The treatment of CSOs by the state both overall and in comparison to business entities has not changed since 2021. The laws related to registration and taxation are more favourable for the business sector, though in practice CSOs are significantly less subject to tax inspections than businesses. Legal regulations provide equal treatment for all CSOs.

⁴⁵ A meeting took place in Gyumri with about 40 public organisations and foundations of Shirak province, State Revenue Committee, 18.05.2022, <https://www.petekamutner.am/mdNews.aspx?ntname=mdOfficialNews&nid=9058>; Meeting with foundations and public organisations, State Revenue Committee, <https://www.petekamutner.am/mdNews.aspx?ntname=mdOfficialNews&nid=9263>.

⁴⁶ Interviews and focus group discussions, September-October 2022.

However, a selective approach has been observed in terms of CSOs' engagement in decision-making and the provision of funding, particularly at the local level.

The scores in the area of Equal Treatment remained the same as in 2021. As in the previous reporting period, the Government is recommended to take measures to provide equitable treatment of CSOs in relation to business entities.

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

The laws on registration and taxation are less favourable for CSOs in comparison to business entities. In particular, the registration process for business entities is less expensive and quicker compared to that for CSOs. The timeline set for registration of a business is a maximum of two days, in contrast to ten days for registration of foundations and public organisations (except for cases in which a public organisation is registered in two days based on a standard charter). This difference is conditioned by the need to review a CSO's charter in detail in cases where it is not based on the standard template provided by the state. The state fee for CSO registration is 10,000 AMD (around 25 EUR), while companies do not pay registration fees, and individual entrepreneurs pay 3,000 AMD (around 7.50 EUR). In addition, in contrast to CSOs and other types of legal entities, limited liability companies and individual entrepreneurs can register online.

CSOs are in a disadvantageous position compared to businesses when carrying out entrepreneurial activities. CSOs cannot make use of the simplified taxation schemes, such as turnover tax or microenterprise. The turnover tax applies to companies with a turnover of less than 115 million AMD (around 287,500 EUR)⁴⁷ and if CSOs were allowed to use it, it would allow them to pay tax on five per cent of their gross income instead of a profit tax equal to eighteen per cent of their net income.⁴⁸ The microenterprise tax regime is provided for business entities with an annual turnover of less than 24 million AMD (around 60,000 EUR) and carrying out a restricted list of activities. It exempts the entity from all state taxes (excluding customs duty, excise fees and fixed income tax for employees).⁴⁹

The unequal taxation field makes CSOs less competitive in comparison to businesses when applying for tenders. In addition, unlike companies, public organisations are obliged to provide an audit report in instances where their annual income from the public budget exceeds 10 million AMD (around 25,000 EUR), which adds to their costs when applying for public procurement tenders. In practice, there are very limited cases in which CSOs have obtained public procurements, usually in cases where the

⁴⁷ RA Tax Code, 04.10.2016, last amended 14.09.2022, Article 254, <https://www.arlis.am/DocumentView.aspx?DocID=169395>.

⁴⁸ Ibid., Article 125.

⁴⁹ Ibid., Articles 267 and 269.

CSO has specific expertise in the relevant field. Few CSOs implement economic activities directly; even fewer participate in public procurement tenders.

In practice, tax inspections are rare for CSOs compared to for business entities. Among 750 organisations included in the SRC July 2021–July 2022 annual inspection plan, the majority are private companies with only two public organisations and eleven foundations mentioned, with almost all of them being state-funded organisations or educational establishments (i.e. universities).⁵⁰

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

There are no specific differentiations between different CSOs set by law. The regulations applicable to public organisations and foundations set the same registration timelines and similar reporting requirements for both types of organisations. The requirement to provide an annual audit report is set for all foundations in cases where the value of their assets exceeds 10 million AMD (around 25,000 EUR) by the end of the reporting year.⁵¹ For public organisations, the audit report is required only for the expenditure of funds received from the state or from LSGBs in cases where the amount of these funds exceeds 10 million AMD (around 25,000 EUR) in the reporting year.⁵²

In practice, CSOs report that officials apply a selective approach to the CSOs that they consult with, particularly at the regional and local level, while local government allocates CSO funding on a discretionary basis (see also Area 5: Right to Participation in Decision-Making and Area 9: State Support). Generally, there is a perception by CSOs and experts that the authorities tend to demonstrate a more favourable and responsive attitude towards service-providing CSOs in contrast to those working on human rights, watchdogging, or environmental initiatives.

Specific recommendations in this Area are as follows:

- That the Ministry of Justice provides opportunities for CSOs to register and update their registration data online; and
- That the Ministry of Finance provides at least equal tax treatment with businesses for CSOs implementing economic activities, allowing them to benefit from the simplified tax regimes.

⁵⁰ Complex Tax Inspection Program for the Period July 2021 - July 2022, <https://www.petekamutner.am/Content.aspx?itn=tsTIVerificationsPlan>.

⁵¹ RA Law on Foundations, 26.12.2002, Article 39.

⁵² RA Law on Public Organisations, 16.12.2016, Article 26.

3.3 Access to Funding

Overall score per area: **5.4 / 7**

Legislation: **5.8 / 7**

Practice: **4.9 / 7**

The legislation allows CSOs to seek, receive and use funding from all legitimate sources. However, this possibility is not fully functional, due to the lack of incentives for CSOs to fundraise and undertake entrepreneurial activities, and most CSOs rely on donor funding. The discrediting campaigns against CSOs that are funded by Open Society Foundations (OSF) have declined, though generally their negative effect on the general public perception of CSOs has remained.

The scores in the area of Access to Funding remain the same from the previous reporting period, and the recommendations to dismiss the mandatory audit requirement and provide a more favourable taxation environment are still applicable.

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

The law allows CSOs to freely seek, receive and use financial and material resources for their work. The possible sources of organisations' income are mentioned in the Law on Public Organisations and the Law on Foundations. CSOs can collect membership fees, conduct entrepreneurial activities, receive funds from the state budget, grants, donations, and other means not prohibited by law.⁵³ Endowment funds are also mentioned in the Law on Foundations as a possible source of funding, which should be specified in the foundation's charter along with other provisions on the management and oversight of these funds.

The law sets out audit procedures that affect CSOs' ability to use and report funding. In particular, public organisations are obliged to provide an audit report for the expenditure of public funds if they received 10 million AMD (around 25,000 EUR) or more from the state or LSGBs in the reporting year.⁵⁴ A requirement for audit is set for foundations in cases where the value of their assets exceeds 10 million AMD (around 25,000 EUR) by the end of the reporting year.⁵⁵ Audit implementation is viewed as problematic by CSOs as it creates additional financial costs and puts them in a less competitive position when applying for state procurement tenders.

⁵³ RA Law Public Organisations, 16.12.2016, Article 7, RA Law on Foundations, 26.12.2002, Article 8.

⁵⁴ RA Law on Public Organisations, 16.12.2016, Article 26.

⁵⁵ RA Law on Foundations, 26.12.2002, Article 39.

Non-profit organisations automatically become twenty per cent VAT payers and have to charge VAT for their goods/services in instances where the annual turnover of the organisation exceeds 115 million AMD (around 287,500 EUR), but only on the amount exceeding the threshold.⁵⁶ In cases in which CSOs have exceeded this threshold (regardless of whether their source of income is grants, donations, or revenues from economic activities), they have to pay VAT on their economic activities irrespective of the income from the latter. In addition, the Tax Code provides a very broad definition of ‘economic activities’, as the works and services covered by grant funding might also be interpreted as economic activities based on the legal definition.⁵⁷ The relevant legislation does not allow CSOs implementing economic activities to use the simplified taxation schemes available to businesses (see also Area 2: Equal Treatment).

In practice, CSOs do not face any restrictions in seeking, receiving, and using funding from a variety of sources. Traditionally, donor grants have been the main source of CSO funding, while membership fees, individual donations, business support, and entrepreneurial activities represent only a small part of CSOs’ income. CSOs acknowledge the need for increasing funding diversification to secure self-sustainability, which is however problematic due to a variety of factors. The culture of giving among the general public is on the rise, but is mostly focused on social, health, and, recently, humanitarian and security issues. Donations by individuals and companies are not stimulated by the tax environment: the existing benefits for business donations are not efficient, while there are no legal mechanisms to promote individual donations. In-kind donations are taxed with VAT unless exemptions are provided in specific cases (see also Area 9: State Support). Most often, business entities prefer to implement charity projects without engagement from CSOs. A number of social entrepreneurship initiatives were launched in recent years. However, many of them relied on donor funding and were not able to achieve self-sustainability.⁵⁸

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

There are no legal restrictions for receiving donations, grants, or in-kind support from international sources. Tax treatment procedures are more beneficial in cases of funding from specific foreign sources, as CSOs may be exempted from VAT when purchasing goods or services under grant projects based on special intergovernmental agreements (for example, in the case of EU or USAID funding). When funding is from other sources, tax exemptions can be provided by the decision of the relevant

⁵⁶ RA Tax Code, 04.10.2016, Articles 59 and 63.

⁵⁷ RA Tax Code, 04.10.2016, Article 4, clause 47, 48.

⁵⁸ The Current State and Changing Role of Civil Society in Public Policy Processes: Research Report, Center for Educational Research and Consulting, 2022, https://e-research.am/storage/books/CSO%20Research_Current_Challenges_Margaryan_Hovakimyan_Galstyan_CERC.pdf

authorised body qualifying the specific projects as charitable. This, however, entails a lengthy and bureaucratic process (see also Area 9: State Support). As to the tax treatment of in-kind support from international sources, goods received from abroad are subject to customs duty unless they are imported within the framework of charitable projects.

Negative narratives blaming CSOs for ‘serving foreign interests’ have continued, but are generally on the decline, as the organised campaigns against human rights CSOs and those funded by OSF decreased in comparison to 2021. However, these negative narratives are still instilled in the wider population and used occasionally to discredit CSOs (particularly those in the regions) when they express criticism of the authorities or advocate against specific interests (see also Area 8: State Duty to Protect).⁵⁹

Specific recommendations in this Area are as follows:

- That the Ministry of Finance dismisses the mandatory audit requirement, or at least raises the threshold of the income subject to audit;
- That the Ministry of Finance specifies the type of income included in the turnover serving as a basis for the VAT threshold, considering only the income from economic activities, as well as ensures that non-profit activities are not treated as economic activities; and
- That the Ministry of Finance creates a more favourable tax environment to improve CSOs’ possibilities for seeking funding and in-kind support from diverse sources, including individual and business donations and direct entrepreneurship activities.

3.4 Freedom of Peaceful Assembly

Overall score per area: **5.3** / 7

Legislation: **5.7** / 7 | Practice: **4.9** / 7

Freedom of peaceful assembly is protected by Armenian legislation in line with international standards. However, in practice, the state has failed to guarantee and protect freedom of assembly in numerous instances. Incidents of unlawful assembly dispersal, violence and the use of disproportionate force by police have taken place, while a lack of effective sanctions applied towards the police officers who have violated the law has

⁵⁹ Focus group discussions, October 2022.

been reported. At the same time, the overall score in the area of Freedom of Peaceful Assembly remained the same as in 2021. The recommendations of the last report on excluding any unlawful or inconsistent approach in policing assemblies and applying effective sanctions towards the offending police officers have not been addressed and are therefore still relevant.

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

According to the law, anyone has a right to organise and/or participate in a peaceful assembly, and these shall be adequately protected wherever they take place. Freedom of assembly is protected by the Constitution and may be restricted only by law for the protection of state security, the prevention of crime, the protection of public order, the protection of health, morals or the fundamental rights of others.⁶⁰ The Law on Freedom of Assembly defines assembly as ‘a peaceful, unarmed, temporary presence of two or more persons at a place with the intention of forming or expressing a common opinion on matters of public interest.’⁶¹ Limitations on the exercise of the right to freedom of assembly are set for certain positions such as judges, prosecutors, investigators, as well as people serving in the armed forces, national security, police and other military bodies: they should observe political neutrality and not participate in their uniforms as assembly participants.⁶² Spontaneous and urgent assemblies do not require prior notification. Simultaneous assemblies and counter assemblies are not restricted. In general, the legislation on peaceful assembly is compatible with international standards. There are no regulations on digital or online assemblies as a type of peaceful assembly. This means that there are no restrictions imposed yet, at the same time, no measures ensured for protecting participation in such assemblies.

There were numerous instances of assembly dispersals and the application of disproportionate force by police in 2022. Throughout the year, a number of assemblies were held, mostly by opposition groups demanding the resignation of the prime minister. These groups organised sit-ins with tents, blocking traffic in one of the major crossroads of Yerevan for about a month. However, the police did not disperse the assembly while providing necessary protection measures. At the same time, several incidents of detention and violent treatment of assembly participants were noted during the opposition rallies.⁶³ Throughout the year, several assemblies were organised to protest against the war in Ukraine, with some of them dispersed and participants detained without any clear justification.⁶⁴ In one instance, a

⁶⁰ RA Constitution, amended 06.12.2015, Article 44.

⁶¹ RA Law on Freedom of Assembly, 14.04.2011, last amended 25.10.2017, Article 2, <https://www.arlis.am/DocumentView.aspx?DocID=117173>.

⁶² RA Law on Freedom of Assembly, 14.04.2011, Article 8.

⁶³ Monitoring Freedom of Peaceful Assemblies Report (April-June, 2022), Helsinki Committee of Armenia, Yerevan 2022, <https://armhels.com/en/2022/09/14/april-june-2022-report/>.

⁶⁴ Armenian Police Break Up Russian Anti-War Protest, Azatutyun.am, 25.08.2022, <https://www.azatutyun.am/a/32004431.html>.

representative of the National Security Service (NSS) notified the participants (which apparently included Russians) that their personal data would be provided to the Russian Embassy, and, contrary to what is stated in the law, were informed that they do not have the right to organise an assembly if they are not Armenian citizens.⁶⁵

In general, assemblies with anti-Russian slogans have encountered harsher treatment by police in contrast to others. For example, when two young men approached the Russian Embassy with signs to protest against the indifference and neutral standing of Russia towards Azerbaijani troops occupying Armenian territory, the police immediately brought them under administrative arrest (taken to police station for questioning that cannot exceed 3 hours) without any lawful justification.⁶⁶ Moreover, the protest participants were subjected to physical violence and verbal abuse.⁶⁷ The annual report of the Human Rights Defender of Armenia highlights the issue of participants being detained without being immediately notified of the legal basis for their detention, or, in some cases, without any sufficient legal basis at all.⁶⁸

Though most of the assemblies were of a political nature, there were also a few on social, educational, or other issues.⁶⁹ For such assemblies, there are no reports of dispersal or unlawful intervention from the police.

Standard II. The state facilitates and protects peaceful assemblies.

The notification process for holding a peaceful assembly prescribed by law is in line with international standards. For public assemblies taking place outdoors, the law requires that written notification be sent to the head of the community (LSGB) in which the assembly is planned to be held, no sooner than thirty and no later than seven days prior to the assembly date. No notification is needed for assemblies with one hundred or less participants, urgent and spontaneous assemblies, as well as online assemblies and assemblies taking place indoors or on private land. The aim of the notification requirement is to ensure that the state can take necessary measures 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.⁷⁰

⁶⁵ The captain of the NSS threatened to transfer the data of the participants of the peaceful assembly to the Russian embassy in Yerevan, Azatutyun.am, 28.03.2022, <https://www.azatutyun.am/a/31774632.html>.

⁶⁶ The police protected the Russian Embassy from posters, Epress.am, 16.09.2022, YouTube, <https://www.youtube.com/watch?v=FveWPN8SsUs>.

⁶⁷ Interviews and focus-group discussions, September-October 2022.

⁶⁸ Annual Report on the Activities of the Human Rights Defender of the Republic of Armenia and the Situation on Protection of Human Rights and Freedoms in 2021, Human Rights Defender of the Republic of Armenia, page 676, <https://ombuds.am/images/files/022666474d87ff84a86acf39be58bec8.pdf>.

⁶⁹ One of the recent assemblies that took place in October 2022 was students' protest against merging universities, see Yerevan's Brusov University students protest merger, OC Media, 18 October 2022, <https://oc-media.org/yerevans-brusov-university-students-protest-merger/>.

⁷⁰ RA Law on Freedom of Assembly, 14.04.2011, Articles 9-13.

The notifications are discussed within a maximum of five days from the moment of their registration and then sent to the police for an opinion. In cases where there is the intention to impose restrictions or to ban the assembly, the LSGB is obliged to organise hearings and notify the assembly organisers. The restrictions can be set in cases in which the time, place or method of the intended assembly may directly and disproportionately affect the fundamental rights or interests of other persons. In such cases, the authority may suggest that the organiser change the place, time, or method of the assembly. An assembly is banned if its purpose is a violent overthrow of the constitutional order, the incitement of national, racial, or religious hatred, or preaching violence or war. If no such decisions are taken within the set timeframe, the notification is considered.⁷¹ The community head's decision on holding assemblies can be appealed in the administrative court at least seven days before the scheduled day of the assembly. The appeal should be reviewed within two calendar days.⁷²

In practice, most assemblies were held without notification and organised as urgent or spontaneous assemblies.⁷³ There were no documented cases of limiting access to the internet or in any other way restricting assembly organisers to distribute information about upcoming assemblies. The problems associated with using online platforms for organising assemblies are related to fake profiles being used to discredit the assembly organisers and harass their supporters.⁷⁴

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

According to the law, the organiser of the assembly shall take necessary measures to ensure the normal course of the assembly through calling on assembly participants to refrain from violence, prevent violent actions, and separating peaceful participants from participants ready to use force. The organiser should also inform the participants about the police requirements.⁷⁵ The police are obliged to provide a presence at the assembly as soon as it is informed of it and remove persons who grossly violate the peaceful and normal course of the assembly from the assembly venue.⁷⁶ There are no fees required from the state for holding an assembly or any other associated costs. The law does not hold assembly organisers liable for the actions of assembly participants.

⁷¹ RA Law on Freedom of Assembly, 14.04.2011, Articles 15-20.

⁷² RA Administrative Procedure Code, 05.12.2013, last amended 09.06.2022, Article 204, <https://www.arlis.am/DocumentView.aspx?DocID=164969>.

⁷³ Monitoring Freedom of Peaceful Assemblies Report (April-June, 2022), Helsinki Committee of Armenia, Yerevan 2022, <https://armhels.com/en/2022/09/14/april-june-2022-report/>.

⁷⁴ Based on the results of digital assembly monitoring in Armenia, implemented by Helsinki Committee of Armenia, (electronic communication with Rafael Ishkhanyan, November 2022).

⁷⁵ RA Law on Freedom of Assembly, 14.04.2011, Article 31.

⁷⁶ RA Law on Freedom of Assembly, 14.04.2011, Article 32.

No restrictions were reported by assembly organisers in terms of communicating that an assembly is taking place (including through online means) or on the use of equipment during assemblies.

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

The law sets out clear regulations on the use of force, special means, and surveillance devices by the police. However, there are no specific by-laws on the policing of assemblies available publicly. In cases where the notification requirement has not been fulfilled, the police shall announce by loudspeaker that the assembly is unlawful and that the participants may be held liable. However, in any case, the law obliges the police to facilitate an assembly when it is peaceful regardless of the fulfilment of the notification requirement. The police can stop an assembly only in cases where there is no other way to prevent a disproportionate restriction on others' fundamental rights or public interests. To stop the assembly, the police are obliged to communicate the request to the organiser or, if there is no organiser (or the organiser does not fulfil the requirement), announce the request to stop the assembly at least twice by loudspeaker, setting a reasonable time and warning about the possibility to apply 'special means' (such as tear gas, water cannon, light and sound grenades, etc.) if participants do not adhere to the request. In cases of mass disorder, the police are authorised to take immediate measures without prior notification.⁷⁷

The Law on Police sets out a ban on the use of special means to disperse peaceful assemblies which are held in violation of public order without the use of weapons, 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.⁷⁸ The law also obliges police officers to wear a prescribed uniform with visible signs when carrying out duties related to the maintenance of public order.⁷⁹

The Law on Police also sets out regulations on the use of surveillance technologies to ensure proper notification on the use of such equipment and the protection of personal information. Warning signs must be visible about the stationary video and photo equipment placed in public places. When using mobile equipment, police officers must transport it in a visible manner, except in cases when surveillance is being conducted for special investigative purposes. The videos or photos may be used to investigate crimes or violations of public order, to investigate complaints about officers' actions, to promote the protection of individuals' rights and legitimate

⁷⁷ RA Law on Freedom of Assembly, 14.04.2011, Articles 32 and 33.

⁷⁸ RA Law on Police, 16.04.2001, last amended 05.10.2022, Article 31, <https://www.arlis.am/DocumentView.aspx?docid=169385>.

⁷⁹ RA Law on Police, 16.04.2001, Article 12.

interests, or to publicise the case of disciplinary violation or its absence by a police officer after the completion of an investigation, without disclosing or only minimally identifying other persons' identities. Use of videos or photos by the police for other purposes (including publishing) is prohibited. The list of officers having access to the archive and the procedure for using the data is defined by the Order from the Chief of Police.⁸⁰

In the framework of implementation of the National Strategy for Human Rights Protection and the resulting Action Plan for 2020-2022, to address the issues highlighted in the area of freedom of assembly, the Government completed analysis of the relevant legislation and organised trainings on international standards of freedom of assembly for 187 police officers.⁸¹ However, experts have found that these measures are not sufficient and, in practice, the police officers often do not follow international standards, despite numerous training programmes being implemented.⁸²

A number of cases of inappropriate use of force by police in order to detain protest participants and disperse the protests were reported during the year. Violence against assembly participants and journalists has been documented in several instances.⁸³ During an opposition rally in June 2022, when what was a peaceful assembly turned violent after the blocking of the road by the police, instead of separating violent participants, the police used flash grenades which resulted in injury to assembly participants and to police officers. Overall, 16 civilians and 34 police officers were injured during the assembly.⁸⁴

An incident that caused a large amount of public discontent was the violent dispersal of the protest action at the Yerablur Military Pantheon in September 2022. Parents of fallen soldiers had assembled at the entrance to the Pantheon to peacefully protest at the time when the prime minister was expected to arrive.⁸⁵ Thirty-seven participants of the protest were forcefully brought under administrative arrest by police. In response to this incident, CSOs issued a statement demanding the dismissal of the police chief.⁸⁶

⁸⁰ RA Law on Police, 16.04.2001, Article 22.

⁸¹ 2021 Report on the Implementation of the Action Plan for 2020-2022 Derived From The National Strategy For The Protection Of Human Rights, http://e-rights.am/file.php?class_name=company_document_file&file_uniq_id=43162693d2cba48e4896&size_mode=1.

⁸² Discussions with CSO Meter Hub members, Interviews, September-October 2022.

⁸³ Monitoring Freedom of Peaceful Assemblies Report (April-June, 2022), Helsinki Committee of Armenia, Yerevan 2022, <https://armhels.com/en/2022/09/14/april-june-2022-report/>; Quarterly report of CPFE on Situation with Freedom of Expression and Violations of Rights of Journalists and Media in Armenia (April-June, 2022), Committee to Protect Freedom of Expression, 26.07.2022, <https://khosq.am/en/reports/quarterly-report-of-cpfe-on-situation-with-freedom-of-expression-and-violations-of-rights-of-journalists-and-media-in-armenia-april-june-2022/>.

⁸⁴ Statement, RA Police, 03.06.2022, <https://www.police.am/news/view/hayt030622.html>.

⁸⁵ Yerevan Police Remove Protesters at Yerevan's Yerablur Pantheon, Hetq.am, 21.09.2022, <https://hetq.am/en/article/148531>.

⁸⁶ 35 NGOs demand the dismissal of the police chief, Helsinki Citizens' Assembly-Vanadzor, 22.09.2022, <https://hcav.am/en/joint-statement-police-22-09-22/>.

The experts note that there is a lack of investigations and sanctions applied against police officers who have acted unlawfully during assemblies. In many cases, the police and relevant agencies state that corresponding internal proceedings have been launched, but there is a lack of transparency regarding these proceedings. Where charges are brought against police officers who have applied violence against assembly participants and journalists, the charges are often considered insufficient as they are usually limited to disciplinary sanctions only.⁸⁷

Specific recommendations in the Area are as follows:

- The police should eradicate unlawful actions by police officers and apply a consistent approach to the policing of assemblies; and
- Law enforcement bodies should carry out proper investigations and apply the relevant sanctions in cases where police officers have abused their power in the policing of assemblies.

3.5 Right to Participation in Decision-Making

Overall score per area: **4.8 / 7**

Legislation: **5.3 / 7** | Practice: **4.3 / 7**

The legislation provides a variety of institutional mechanisms aimed at engaging civil society and the public in the decision-making process, including the electronic platform for public consultations, public hearings, and consultative bodies. However, in practice, not all of them are fully functional and effective. There are some successful cases of cooperation, but the impact of CSO engagement is limited depending on the decision-maker and the theme discussed.

The Strategy of Public Administration Reform and the new Open Government Partnership (OGP) Action Plan 2022-2024 cover several measures aimed at improving public participation, including review of participation frameworks and tools to ensure an open and inclusive decision-making process, setting up platforms for participation in state and local budget development, the creation of a self-assessment mechanism on freedom of information, and the development of the state strategic communication framework. These measures are expected to address some of the recommendations of the CSO Meter 2021 report. Positive trends in the legislation on access to information include ratification of the

⁸⁷ Interviews, October 2022.

Convention on Access to Official Documents and an increase in the fines for failure to provide responses to enquiries. In practice, however, responses to enquiries and the proactive disclosure of information by state bodies are often not compliant with the legal requirements.

The overall score in this area, as well as most of the recommendations from 2021, remained the same. In particular, the Government is recommended to provide more effective use of existing participation tools to ensure meaningful participation, engage CSOs in the early stages of decision-making (as well as in policy monitoring and implementation), set sanctions for non-compliant state bodies, and define mechanisms for mandatory public discussion of drafts initiated by the Parliament.

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

According to the law, everyone has a right to participate in decision-making in Armenia, and a number of opportunities are provided for the participation of citizens and CSOs. However, the accountability mechanisms for non-compliance with the participation requirements are weak.

The Constitution sets out the right of citizens to present petitions and legislative initiatives to decision-makers. According to the Law on Normative Legal Acts, public consultation on new legislative acts is mandatory, except for the legal drafts on ratification of international agreements. The minimal duration for public consultation is fifteen days, and the results of public consultations should also be published along with the revised normative legal act. In instances where draft legislation submitted to the Government has not passed the public discussion, the Government can return it to the submitting body.⁸⁸ These provisions, however, do not extend to draft legislation initiated by parliament or presented as a result of citizen initiatives.⁸⁹ Further, legal acts related to the state of emergency or martial law are also not subject to mandatory public consultation though can be consulted by the initiative of the relevant body that prepares or adopts the draft.⁹⁰

The parliamentary rules of procedure state that parliamentary hearings can be organised by the decision of the President of the National Assembly, by permanent or temporary committees or by factions.⁹¹ In 2022, as of 15 October, five parliamentary hearings had been organised, mostly on the initiative of various standing committees, in comparison to three hearings organised in 2021.⁹² Information on upcoming hearings is published on the parliamentary website and the hearings are broadcast

⁸⁸ RA Law on Normative Legal Acts, 21.03.2018, last amended 19.04.2021, Articles 3 and 4, <https://www.arlis.am/DocumentView.aspx?DocID=152139>.

⁸⁹ Ibid., Article 1.

⁹⁰ Ibid., Article 27.1.

⁹¹ RA Constitutional Law on the Charter of National Assembly, 16.12.2016, last amended 15.09.2022, Article 125, <https://www.arlis.am/DocumentView.aspx?DocID=169105>.

⁹² Based on the review of the “News” section of the parliament website, <http://parliament.am/news.php?lang=arm>.

live. In addition, parliamentary committees organise working discussions with CSOs and experts on an invitation basis.

At the local level, there are a number of provisions on participation of community members in local self-government. According to the law, sessions of community councils are open to the public and broadcast online in communities with more than 3,000 residents. Public hearings are mandatory for consultation on the draft five-year community development programmes and annual budget.⁹³

There are no administrative sanctions defined for violating the provision on mandatory public consultation. The procedure for organising and conducting public consultations mentions that individuals and organisations can apply to the decision-making body as well as the Ministry of Justice to receive explanations in cases where violations in the process of public consultations are identified.⁹⁴

In practice, as a rule, CSOs are not discriminated against on the basis of their type or position towards the Government. Usually, CSOs active in a specific policy area have the opportunity to participate in relevant consultations whether online or offline. Generally, government representatives are responsive to meeting invitations and open to the dialogue, but the overall impact of CSO participation is questionable. On the other hand, both state representatives and CSO experts mention the lack of sufficient expertise and specific, evidence-based proposals by civil society.⁹⁵

There are no legal provisions on strategic lawsuits against public participation (SLAPPs). However, in recent years, mining companies have initiated dozens of lawsuits against environmental activists on the basis of libel and insult accusations in an attempt, CSOs believe, to silence their criticism and activities.⁹⁶ These court cases often take years, with back-and-forth proceedings and appeals, and drain the time and financial resources of the activists. The cases also have the effect of discouraging citizens who might otherwise have been activists from participating.⁹⁷

CSOs engaged in social protection and women's rights issues note that they have quite effective dialogue with the relevant state authorities, which are open to considering their opinions and suggestions and even proactively seek their participation and input. CSOs are also engaged by the Ministry of Justice in the development of strategies and legislation related to anti-corruption, legal reforms, human rights protection, etc. However, as to policy-making in areas such as ecology, urban

⁹³ RA Law on Local Self-Government, 07.05.2002, revised 16.12.2016, last amended 14.07.2022, <https://www.arlis.am/documentview.aspx?docid=166230>.

⁹⁴ The Procedure of Organising and Conducting Public Consultations, Appendix to the RA Government Decision No. 1146-N dated 10.10.2018, <https://www.arlis.am/DocumentView.aspx?DocID=126002>.

⁹⁵ Interviews, September-October 2022; The Current State and Changing Role of Civil Society in Public Policy Processes: Research Report, Center for Educational Research and Consulting, 2022.

⁹⁶ SLAPPd: the Armenian activists fighting a mining multinational's lawsuits, CEE BankWatch Network, <https://bankwatch.org/blog/slappd-the-armenian-activists-fighting-a-mining-multinational-s-lawsuits>

⁹⁷ Focus-group discussions, communication with environmental activists, October 2022.

planning, territorial and justice reforms, political and other sensitive issues, the opinion of CSOs might be neglected due to the dominance of other political and economic interests.⁹⁸ Inclusiveness of participation remains another challenge, as no proactive steps are taken by the Government to engage the end-users of designed policies and laws, as well as to ensure physical and content accessibility to encourage the participation of various social groups.⁹⁹

The scope and effectiveness of local-level participation and dialogue often depends on the capacity of local CSOs and the personal attitudes of community heads. Often, public hearings on the community budget and development plan are conducted as a formality with no meaningful participation and/or incorporations of proposals by CSOs. Organisations implementing social, youth, and cultural projects are more successful in gaining LSGB support, while human rights, watchdog, and environmental organisations might be ignored, or even harassed.¹⁰⁰

CSOs' engagement was successful in the development of the new OGP Action Plan 2022-2024, in which they actively participated in the co-design process, and 7 of 10 commitments eventually included in the Action Plan were proposed by civil society. Some of the commitments in the new Action Plan aim to address participation issues, e.g. through setting up electronic tools allowing more effective and large-scale participation in state and community budget design processes, modernising the institutional system of communication in the Government and addressing the gaps and any inconsistent and discriminatory approaches in the area of government-CSO communication.¹⁰¹

The Public Administration Reform Strategy adopted by the Government in May 2022 acknowledged the drawbacks of participatory governance and proposed to review participatory governance frameworks and tools to ensure an open and inclusive decision-making process, implement reform of the Public Council, and use participation tools outside the online platform.¹⁰²

⁹⁸ Interviews and focus-group discussions, September-October 2022; see also: RA Judicial and Legal Reforms Strategy do not Express the Positions and Recommendations of Civil Society, Helsinki Citizens' Assembly-Vanadzor, <https://hcav.am/en/joint-statement-2-8-22/>; NGOs Demanding to Withdraw Draft Bill on Amending and Supplementing RA Mining Code and Organize Public Discussions, EcoLur, 02.04.2022, <https://www.ecolor.org/en/news/amulsar/13877/>; The statement of CSOs regarding the election of Vahagn Hovakimyan as the President of the CEC, Transparency International Anticorruption Center, 10.10.2022, <https://transparency.am/hy/media/statements/article/4731>.

⁹⁹ Public Participation Platforms and Opportunities in Armenia: Mapping Study, Transparency International Anticorruption Center, Yerevan 2021, <https://transparency.am/hy/publications/view/409>.

¹⁰⁰ Interviews and focus group discussions, September-October 2022.

¹⁰¹ For more information, see: Armenia approves fifth OGP Action Plan 2022-2024, CSO Meter, 17.10.2022, <https://csometer.info/updates/armenia-approves-fifth-ogp-action-plan-2022-2024>.

¹⁰² RA Government Decision N 691-L "On approving the strategy of public administration reforms, the roadmap and result framework for 2022-2024, the list of persons providing monitoring and coordination of the strategy implementation", 13.05.2022, <https://www.arlis.am/DocumentView.aspx?docID=162791>.

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

The legislative framework defines several mechanisms for open and regular public participation in developing public policies. These mechanisms include, in particular, the publishing of legal drafts on the unified platform for public comments, the organisation of public hearings, and the setting up of consultative bodies.

According to the procedure, public consultations on draft normative legal acts developed by a government agency should take place through its publication on the official website of the given agency, as well as on the Unified Website for Publication of Draft Legal Acts administered by the Ministry of Justice (www.e-draft.am).¹⁰³ The legislative drafts are published with descriptions and justification, and the platform allows submission of proposals which are made public together with the feedback from the responsible agency. CSOs consider the platform to be a useful source of information on the drafts and it serves as a channel to provide suggestions. However, several shortcomings of the platform are highlighted: the lack of publication of the revised versions of drafts, the absence or delay of feedback to proposals, insufficient justifications in case of rejecting proposals, and the period for providing proposals to extensive legal drafts being too short (15 days). Besides, the existence of the e-draft platform often serves as an excuse for not organising any other consultations or in-person hearings, even in cases in which there are few views of the draft or no comments provided. The final adopted draft can be significantly different from the version posted for public comments, therefore CSOs sometimes have to retroactively provide feedback in case they have serious concerns regarding the adopted drafts.

An example of failure to incorporate CSO suggestions is in relation to the draft amendments to the Code on Subsoil, particularly those on the proposal to extend (with retroactive effect) mining licenses in cases of force majeure, which, among other circumstances, includes “civil disobedience”.¹⁰⁴ CSOs produced a statement mentioning that defining civil disobedience as a force majeure serves the interests of mining companies (particularly the company exploiting Amulsar mine, which was the focus of a long-term struggle with ecologists) and deprives the local population of any mechanisms to oppose decisions that are harmful for their community.¹⁰⁵ After continuous statements by CSOs, the Ministry of Territorial Administration and Infrastructure published an invitation for in-person discussion with only one day’s

¹⁰³ The Procedure of Organising and Conducting Public Consultations, Appendix to the RA Government Decision No. 1146-N dated 10.10.2018.

¹⁰⁴ The draft amendments defined “civil disobedience” as protest actions through public assemblies, which are directed against the policy or program conducted by the government.

¹⁰⁵ Statement on the RA draft law "On Amendments and Additions to the Code of Subsoil of the Republic of Armenia", Transparency International Anticorruption Center, 17.02.2022, <https://transparency.am/hy/media/statements/article/4553>.

notice on its Facebook page.¹⁰⁶ Despite further discussions and statements from CSOs, the Parliament adopted the amendments to the Code on the Subsoil with the disputed provision included.¹⁰⁷

According to the procedure on public consultations, public hearings and surveys are optional. CSOs find that in-person discussions should take place in parallel with e-draft publications, especially in cases when there are controversial opinions on the draft or it concerns issues of public significance. The practice of organising in-person discussion in the early stages of legal drafts depends on the body initiating the draft as well as the theme discussed. In-person consultations are usually held in Yerevan, thus regional CSOs are often deprived of the opportunity to participate.

The government ministries' charters include a provision on public councils to be set up to ensure civil society participation in the implementation of the objectives and functions of the ministries.¹⁰⁸ The councils are set up through an announcement and are open to all citizens and organisations with experience in the relevant areas. The final decision on the council composition is signed by the respective minister who also chairs the council. However, in practice, these councils are not always functional and often described by CSOs as a formality. According to the information published on ministries' official websites, in 2022 (as of October), meetings of public councils had convened in six out of twelve ministries, and only once in the current year in three of them.¹⁰⁹

There is no legal enforcement for participation in policy implementation and monitoring. The practice of engaging CSOs in the stages of implementation, monitoring and evaluation of state policies and programmes is limited, and often depends on the proactiveness of CSOs and the availability of donor-funded programmes. Working groups, committees and multi-stakeholder groups that were set up for specific policy areas, drafts, or programmes demonstrate successful experiences of collaboration, but remain limited in scope and impact.

¹⁰⁶ CSO statement on the draft law "On Amendments and Additions to the Code of Subsoil of the Republic of Armenia", Transparency International Anticorruption Center, 08.04.2022, <https://transparency.am/hy/media/statements/article/4596>.

¹⁰⁷ RA Law on Amendments and Supplements to the Code on Subsoil, 25.05.2022, <https://www.arlis.am/documentView.aspx?docid=164453>.

¹⁰⁸ 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, <https://www.arlis.am/DocumentView.aspx?DocID=104665>.

¹⁰⁹ Source: official websites of 12 ministries, listed in the website of the Government of the Republic of Armenia, <https://www.gov.am/en/structure/>.

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

Armenian legislation provides clear procedures on access to information, including the requirement for state bodies to disclose information related to the decision-making process. Access to information is guaranteed by the Constitution.¹¹⁰ According to the Law on Freedom of Information, the responses to written information requests are submitted to the applicant within five days of receipt, but in case additional effort is required for providing the information, this timeline extends to 30 days.¹¹¹

Restrictions on information provision exist in relation to national security, professional confidentiality, private information, copyrighted data, and data on preliminary examination of criminal proceedings not subject to publication.¹¹² The fee charged by public administrations and LSGBs, public institutions and organisations includes only the technical costs of providing such information, with no charges associated with printing or copying information that is ten pages or less, providing information by email, or responding to written inquiries.¹¹³ The government's Unified Platform for Electronic Inquiries at www.e-request.am¹¹⁴ serves for submitting and tracking online applications, and requests or complaints to state authorities. The law also envisages the disclosure of information by the Government. State agencies, regional administrations and communities are required to publish information specified by law on their websites annually.¹¹⁵ According to the amendments to the Law on Local Self-Government, which entered into force starting in 2022, all communities (municipalities) are now obliged to run their websites where the necessary information specified by the Law is published (previously, this provision applied only to communities that have 3,000 or more residents).¹¹⁶

In May 2022, Armenia ratified the Council of Europe Convention on Access to Official Documents, which sets out a strict framework for limitations on the right to information access and provides minimum standards to be applied in the processing of requests for access to official documents.¹¹⁷ Though the Armenian legislation on freedom of information has been generally compliant with the Convention

¹¹⁰ Constitution of the Republic of Armenia, 05.07.1995, amended on 06.12.2015, Article 51.

¹¹¹ RA Law on Freedom of Information, 23.09.2003, last amended 09.06.2022, Article 9, <https://www.arlis.am/documentview.aspx?docID=164931>.

¹¹² RA Law on Freedom of Information, 23.09.2003, Article 8.

¹¹³ RA Law on Freedom of Information, 23.09.2003, Article 10.

¹¹⁴ The procedure for registration, classification and maintenance of information developed by or delivered to the information holder, Appendix to the RA Government Decision No. 1204-N dated 15.10. 2015, last amended 26.11.2020, <https://www.arlis.am/DocumentView.aspx?DocID=147567>.

¹¹⁵ RA Law on Freedom of Information, 23.09.2003, Article 7.

¹¹⁶ RA Law on Amendments and Supplements to the RA Law on Local Self-Government, 24.01.2020, <https://www.arlis.am/documentview.aspx?docid=139078>.

¹¹⁷ Armenia ratified the Council of Europe Convention on Access to Official Documents and the Additional Protocol to the Convention on the Prevention of Terrorism, Council of Europe, 04.05.2022, <https://www.coe.int/en/web/human-rights-rule-of-law/-/armenia-ratifies-the-council-of-europe-convention-on-access-to-official-documents-and-the-additional-protocol-to-the-convention-on-the-prevention-of-t>.

requirements, the ratification of the Convention will help to promote additional measures to fully enforce the legislative provisions on the implementation and oversight of the access to information, for example through establishing an independent body responsible for monitoring, or supervising access to official documents, as well as due to the monitoring system set by the Convention.

In practice, the state bodies and municipalities do not often publish complete and timely information; moreover, the published information is often in non-machine-readable PDF formats and does not comply with the open data and accessibility principles.¹¹⁸ In 2022, the first precedent of a court's decision on proactive publication of information was established due to a CSO's strategic litigation initiative. The court fully upheld the Freedom of Information Center's claim against seven municipalities, obliging them to publish on their official websites all the information that was subject to mandatory publication as defined by the Law on Freedom of Information.¹¹⁹

According to CSOs, responses to enquiries are not always provided on time, and enquiries on sensitive issues might be rejected, for example, under the justification of 'state secrecy'.¹²⁰ In a number of such cases, CSOs and media organisations submitted court applications to obtain a proper response.¹²¹ There are also many cases when incomplete responses are provided. According to a report on freedom of access to information, 90 per cent of responses from 117 inquiries sent to state bodies and municipalities did not fully comply with the legal requirements, including 3 per cent that received no response, 8 per cent a delayed response, and 32 per cent an incomplete response.¹²²

In September 2022, the Parliament adopted amendments to the Code on Administrative Offences, which sets higher fines for information holders that illegitimately do not provide information. This amendment was proposed by the Ministry of Justice based on a petition by the Freedom of Information Center.¹²³ According to the amendments, the fines for failure to provide information will be 30,000-70,000 AMD (75-175 EUR) instead of 10,000-50,000 AMD (25-125 EUR), while the same violation repeated within a year is subject to a fine of 100,000-150,000 AMD (250-375 EUR) instead of 50,000-100,000 AMD (125-250 EUR).¹²⁴ CSOs proposed to define sanctions not only for failure to provide responses, but also for delayed and

¹¹⁸ Focus group discussions, October 2022.

¹¹⁹ Strategic victory in the field of proactive publicity, Freedom of Information Center of Armenia, 24.06.2022, <http://www.foi.am/hy/news/item/2266/>.

¹²⁰ Interviews and focus group discussions, September-October 2022.

¹²¹ Quarterly report of CPFE on Situation with Freedom of Expression and Violations of Rights of Journalists and Media in Armenia (April-June, 2022), Committee to Protect Freedom of Expression, 26.07.2022.

¹²² Freedom of Information in Armenia 2022, Freedom of Information Center of Armenia, 01.07.2022, <http://www.foi.am/en/research/item/2291/>.

¹²³ Success story, Freedom of Information Center of Armenia, <http://www.foi.am/en/Success/item/2186/>.

¹²⁴ RA Law on Amendments to the Code on Administrative Offenses, 14.09.2022, <https://www.arlis.am/documentview.aspx?docid=169101>.

incomplete responses.¹²⁵ However, these proposals were not taken into account in the abovementioned amendment.

In July 2022, the NSS published a draft Law on State Secrecy, which proposed to introduce the concept of ‘limited service information’ that is not classified as secret but should be restricted as its dissemination can harm the country’s “protection, foreign relations, political and economic interests, protection of the legal system, rights and legal interests of legal and natural persons.”¹²⁶ These amendments were met by criticism from CSOs who find the proposed concepts as an unnecessary restriction on freedom of information.¹²⁷ The Government incorporated some of the CSOs’ suggestions. However, the main problematic provisions remained in the draft that was approved by the Government and sent to the Parliament in November 2022.¹²⁸

There are no official statistics available on enquiries and complaints, nor is there any public information on the number of complaints related to delayed or incomplete responses, or on steps taken for corrective actions. The new OGP Action Plan entails setting up a mechanism for self-assessment in the area of freedom of information, which will include a unified system of collecting freedom of information statistics by the Government.¹²⁹ The Strategy on Public Administration Reforms also entails steps on provision of institutional and legal foundations contributing to the full realisation of the right to freedom of information.¹³⁰

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

CSOs are not restricted in engaging in public policy activities. At the same time, public organisations cannot set statutory objectives that are reserved for other organisational types, such as political parties.¹³¹ The goals of political parties are defined as “participation in referendums, elections of national and local government,

¹²⁵ Opinion on the RA Draft Law on Making Amendments to the Administrative Procedural Code of the RA, The Law Development and Protection Foundation, 08.02.2022, <https://ldpf.am/uploads/files/f49c714e93d6bde192284764dce2eaf9.pdf>.

¹²⁶ Draft Law on State Secrecy and related legislation, Unified Website for Publication of Legal Acts’ Drafts, <https://www.e-draft.am/projects/4551/about>.

¹²⁷ Opinion on the Draft Law on State Secrecy, Joint Statement, Helsinki Citizen Assembly-Vanadzor, July 28, 2022, <https://hcav.am/joint-28-07-2022/>.

¹²⁸ <http://parliament.am/drafts.php?sel=showdraft&DraftID=13744&Reading=0>.

¹²⁹ RA Government Decision N 1568-L “On approving the 2022-2024 Action Plan of the Republic of Armenia in the framework of the Open Government Partnership initiative, 06.10.2022, <https://www.arlis.am/DocumentView.aspx?DocID=169335>.

¹³⁰ RA Government Decision N 691-L “On approving the strategy of public administration reforms, the roadmap and result framework for 2022-2024, the list of persons providing monitoring and coordination of the strategy implementation”, 13.05.2022, <https://www.arlis.am/DocumentView.aspx?docID=162791>.

¹³¹ RA Law on Public Organisations, 16.12.2016, Article 3.

and other forms of participation in public and state political life with the purpose of contributing to the formation and expression of the people's political will."¹³²

There is no legislation on lobbying activities in Armenia.

In practice, CSOs are free to engage in the policy-making process and advocacy activities without the need to have a special status or registration. CSOs are not harassed or persecuted for views supporting or contrary to the interests of political parties. However, on an individual level, people can be subject to hate speech and verbal attacks for their political views (see also Area 6: Freedom of Expression).

Specific recommendations in this Area are as follows:

- That the state utilises the available institutional mechanisms of participation and ensures meaningful participation through engaging CSOs in the early stages of policy development, addressing the drawbacks of the e-draft platform, providing sufficient time for consultations, organising more frequent face-to-face consultations, including in the regions, and considering and incorporating CSO suggestions to the maximum possible extent;
- That the Parliament sets mechanisms for mandatory public consultation for the drafts produced by members of parliament and for CSO engagement in the early stages of legal drafts;
- That the Government and the Parliament envisage legal sanctions for non-implementation of the provisions related to public consultations and the activities of consultative bodies;
- That state bodies should respond to CSO inquiries in a timely and comprehensive manner and ensure timely publication and continuous updating of information on official websites;
- That state bodies improve the effectiveness of consultative bodies through applying a more strategic approach to their activities, improving their transparency, and allowing a larger scope of powers in decision-making processes; and
- That the Government widens CSO engagement in policy implementation and monitoring stages through setting institutional mechanisms and ensuring engagement after the adoption of laws, policies, and strategies.

¹³² RA Constitutional Law on Political Parties, 16.12.2016, last amended on 14.07.2022, Article 2, <https://www.arlis.am/DocumentView.aspx?DocID=166242>.

3.6 Freedom of Expression

Overall score per area: **4.8 / 7**

Legislation: **5.2 / 7** | Practice: **4.3 / 7**

Freedom of expression is guaranteed by legislation, and media organisations are free to implement their activities without registration and licensing, except for TV and radio companies. As in the previous year, the practical issues are linked with disinformation and hate speech in both traditional and online media, incidents of attacks on journalists and lawsuits claiming compensation for defamation and insult.

In 2022, amendments to the Law on Mass Media on setting media liability in cases of citing information from ‘non-identified’ sources entered into force. Several new drafts were initiated that met with criticism from mass media organisations. On the positive side, the Government committed to developing a framework for media reforms in collaboration with civil society, while the controversial legal provision on criminalising grave insult was removed. In addition, the new Criminal Code provided liability for hate speech. In this regard, the recommendations of the CSO Meter 2021 report were partially implemented and the overall score in the area of Freedom of Expression increased from 4.7 to 4.8. The current recommendations urge the state to maintain its commitment to consulting with CSOs and media organisations on media-related legislation in the early stages and to apply a consistent, non-discriminatory approach in addressing hate speech and disinformation.

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

Armenian legislation guarantees everyone’s right to freedom of expression and opinion. According to 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 the state or LSGBs and irrespective of state borders. Freedom of expression may be restricted only by law 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. The freedom of the press, radio, television, and other means of information is also guaranteed.¹³³

¹³³ Constitution of the Republic of Armenia, 05.07.1995, amended on 06.12.2015, Article 42.

According to the Law on Mass Media, 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. The law restricts the dissemination of information that is considered secret information, or information advocating criminally punishable acts, as well as information violating the right to privacy of one's personal or family life.¹³⁴ According to the amendments to the Law on Mass Media and relevant legislation adopted in late 2021 and entering into force in January 2022, the mass media will not be exempted from liability in cases of citing information from 'non-identified' sources.¹³⁵ In addition, based on the amendments, mass media with its own website is obliged to publish its annual financial report on its website, including information on funding by type of funding source.¹³⁶ Media CSOs generally do not see significant problems with the concept of liability for the information from 'non-identified' sources and mention that the adopted draft was a significant improvement compared to the ban on citing anonymous sources discussed in 2021.¹³⁷ As to the requirement of publishing financial reports online, this move was generally positive taking into account the commercial and political affiliations of Armenian media.¹³⁸

As a positive development, a Memorandum of Cooperation was signed between 11 media organisations, the relevant parliamentary committee and the Ministry of Justice on 19 April 2022, according to which the government representatives committed not to adopt any legislation concerning the media without proper consultations with the relevant stakeholders. Moreover, it was decided to set up a joint working group which will develop a comprehensive concept on mass media reforms to serve as the basis for further policies and legislative amendments.¹³⁹

Media outlets are issued and distributed without prior or current state registration, licensing, declaration or notice to any state body.¹⁴⁰ The requirement for licensing of mass media refers exclusively to radio and television companies. The Law on Audiovisual Media regulates the activities of broadcasting media, including their

¹³⁴ RA Law on Mass Media, 13.12.2003, last amended 25.05.2022, Article 7, <https://www.arlis.am/DocumentView.aspx?DocID=164454>.

¹³⁵ According to the amendments, a 'non-identified source' is defined as a domain registered on the Internet, a web hosting site, or an account or channel on a website or application, whose owner identification information is absent, or obviously false, or incomplete, which makes it impossible to identify the owner of the source.

¹³⁶ RA Law on Amendments and Supplements to the RA Law on Mass Media, 10.12.2021, <https://www.arlis.am/DocumentView.aspx?docid=159043>.

¹³⁷ For more information, see: Armenia: Legislative proposals put freedom of speech under pressure, CSO Meter, 15.02.2021, <https://csometer.info/updates/armenia-legislative-proposals-put-freedom-speech-under-pressure>

¹³⁸ Freedom in the World 2022: Armenia, Freedom House, <https://freedomhouse.org/country/armenia/freedom-world/2022>.

¹³⁹ Memorandum of Understanding, 19 April 2022, Yerevan, https://www.moj.am/storage/files/news/news_5121033488291_Scan_2_.pdf.

¹⁴⁰ RA Law on Mass Media, 13.12.2003, Article 4.

authorship, licensing, rights, and responsibilities, etc.¹⁴¹ In June 2022, the Ministry of High Technologies proposed amendments to the Law on Audiovisual Media which were not first discussed with media CSOs and presented controversial provisions on the content of media, such as differentiation of facts and opinions and the provision of verified and unbiased information, etc.¹⁴² After statements and addresses by media CSOs,¹⁴³ the draft was revised, removing most of the disputed provisions.¹⁴⁴

In the context of security issues and political tensions, similarly as in 2021, disinformation and hate speech were widespread in both traditional and online media. Attacks on journalists were less frequent in 2022 as compared to 2021. However, there were several cases of physical violence towards media workers and journalists by police and demonstrators, as well as obstructing their work during the coverage of rallies by the opposition groups in May-June 2022.¹⁴⁵

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

The current legislation facilitates and protects freedom of opinion and expression mostly in accordance with international law. However, several new drafts initiated within the last year do not fully comply with international standards.

The Law on Mass Media states that media practitioners and journalists are not obliged to disclose their source of information, except in cases where there is a court decision on disclosure aimed at uncovering serious crimes.¹⁴⁶ The confidentiality of whistleblowers' identities is also protected by the Law on Whistleblowing.¹⁴⁷

A legislative amendment initiated by members of parliament was adopted in May 2022, allowing state bodies to terminate a journalist's accreditation if they have violated the rules of procedure of that agency for the second time within a year.¹⁴⁸ According to media experts, this move indicates Armenia's departure from

¹⁴¹ RA Law on Audiovisual Media, 16.07.2020, last amended 09.06.2022, <https://www.arlis.am/DocumentView.aspx?DocID=164933>.

¹⁴² Drafts of the Law "On Amendments and Supplements to the Law on Audiovisual Media" and related laws, Unified Website for Publication of Legal Acts' Drafts, <https://www.e-draft.am/projects/4418/about>.

¹⁴³ Statement, Committee to Protect Freedom of Expression, 20.06.2022, <https://khosq.am/2022/06/20/hայտարարություն-98/>.

¹⁴⁴ Drafts of the Law "On Amendments and Supplements to the Law on Audiovisual Media" and related laws, Unified Website for Publication of Legal Acts' Drafts, <https://www.e-draft.am/projects/4574/about>.

¹⁴⁵ Quarterly report of CPFE on Situation with Freedom of Expression and Violations of Rights of Journalists and Media in Armenia (April-June, 2022), Committee to Protect Freedom of Expression, 26.07.2022, <https://khosq.am/en/reports/quarterly-report-of-cpfe-on-situation-with-freedom-of-expression-and-violations-of-rights-of-journalists-and-media-in-armenia-april-june-2022/>.

¹⁴⁶ RA Law on Mass Media, 13.12.2003, Article 5.

¹⁴⁷ RA Law on Whistleblowing, 09.06.2017, last amended 12.07.2018, Article 11, <https://www.arlis.am/DocumentView.aspx?DocID=123969>.

¹⁴⁸ RA Law on Amendment and Supplement to the RA Law on Mass Media, 25.05.2022, <https://www.arlis.am/DocumentView.aspx?docid=164451>.

international standards in media legislation.¹⁴⁹ It is also noted that the so called “rules of procedures” are not defined in law, thus allowing the state agency to make a decision on its own discretion. This amendment was negatively assessed by media organisations not only for its content but also the fact that it was passed without consultation with civil society despite the memorandum of understanding signed a month before the voting on the draft.

Defamation and libel were decriminalised 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 of up to 3 million AMD (around 7,500 EUR) for insult and 6 million AMD (around 15,000 EUR) for defamation. The Civil Code mentions that the court has to take into account the property of the defendant when defining the compensation amount.¹⁵⁰ In 2021, 61 lawsuits were filed against journalists and media outlets on the grounds of libel and insult.¹⁵¹ At the same time, according to the CSO monitoring results, the courts tend to set amounts of compensation far from the maximum defined by the law.¹⁵² However, in 2022, the Court of Appeal imposed a payment of compensation of 1,224,000 AMD (3,060 EUR) to a mining company by an environmental journalist on the grounds of defamation (for using the word “criminal” in reference to the company in a public speech). The Court of Cassation did not accept the appeal of the decision.¹⁵³

The trial against the CSO leader working in the area of protecting national minority rights, initiated in 2021 on the basis of the statements he provided in a press interview, continued in 2022 despite a number of statements by local and international organisations.¹⁵⁴

As a positive development in the area, amendments to the Criminal Code and Criminal Procedure Code adopted in July 2021 and criminalising grave insult (including swearing or ‘insulting a person’s dignity in another extremely indecent manner’) were annulled since July 2022, when the new Criminal Code entered into

¹⁴⁹ Armenia parliament passes bill allowing state bodies to revoke journalist accreditation, Committee to Protect Journalists, 31 May 2022, <https://cpj.org/2022/05/armenia-parliament-passes-bill-allowing-state-bodies-to-revoke-journalist-accreditation/>.

¹⁵⁰ RA Civil Code, 05.05.1998, last amended 15.06.2022, Article 1087.1.

¹⁵¹ Annual Report of CPFE on Situation with Freedom of Expression and Violations of Rights of Journalists and Media in Armenia-2021, Committee to Protect Freedom of Expression, 25.01.2022, <https://khosq.am/en/reports/annual-report-of-cpfe-on-situation-with-freedom-of-expression-and-violations-of-rights-of-journalists-and-media-in-armenia-2021/>.

¹⁵² Interview, October 2022.

¹⁵³ Armenia: Environmental activist sued by gold mining company & ordered by court to pay compensation for defamation, 1 Dec 2022, Ruzan Minasyan, Aravot.am, <https://www.business-humanrights.org/en/latest-news/armenia-environmental-activist-sued-by-gold-mining-company-ordered-by-court-to-pay-compensation-for-defamation/>.

¹⁵⁴ See more information in CSO Meter 2021 Armenia Country Report, https://csometer.info/sites/default/files/2022-12/2021%20Armenia%20CSO%20Meter%20Country%20Report%20ENG_3_0_0.pdf.

force.¹⁵⁵ Despite the fact of decriminalization of grave insult, as of 13 October 2022, 398 criminal cases out of 921 initiated since October 2021 are still being investigated. Only 157 criminal cases have been dismissed.¹⁵⁶

Hate speech is now covered in Armenian legislation, as the new Criminal Code sets liability for any public speech aimed at inciting or promoting hatred, discrimination, intolerance or enmity, as well as distributing materials or objects for that purpose. The sanctions range from a fine equal to 20,000 AMD (50 EUR) up to four years' imprisonment in case of aggravating conditions. Another article of the Criminal Code sets liability for public calls to and public justification of or preaching violence, with sanctions varying from a fine to up to three years' imprisonment in case of aggravating conditions. For both articles, the aggravating conditions include cases in which the misconduct was committed by a group of persons with prior agreement, using official powers or influence, or through public channels and/or communication technologies.¹⁵⁷ CSOs that participated in the interviews and focus-group discussions expressed a doubt that the law enforcement officers apply a consistent approach in identifying and following up these cases and are guided primarily with political considerations rather than unbiased judgements based on the law.¹⁵⁸ For example, a publication by an investigative journalist claimed that all eight criminal cases based on the article setting liability for "grave insult" (effective until 1 July 2022) that were sent to the court by law enforcement bodies in 2021, concerned insults addressed to the prime minister.¹⁵⁹

As in 2021, the need to tackle disinformation and fake news is still a priority, especially in the context of the high level of political tension and social polarisation. In this regard, educational and awareness-raising measures rather than restrictive sanctions are highlighted by experts as a high necessity. Discussions around the National Strategy against Disinformation were initiated by the Freedom of Information Center of Armenia in collaboration with the Staff of the Prime Minister and other stakeholders.¹⁶⁰ The draft strategy covers several areas, such as capacity building of state institutions to prevent, detect, respond and analyse disinformation; improved cooperation with the private sector around tackling disinformation; and

¹⁵⁵ For more information, see: Armenia to decriminalise swearing, CSO Meter, <https://csometer.info/updates/armenia-decriminalise-swearing>.

¹⁵⁶ The information was provided on 14.10.2022 by the RA Police in response to the inquiry by TIAC.

¹⁵⁷ RA Criminal Code, 05.05.2021, last amended 05.10.2022, Articles 329 and 330, <https://www.arlis.am/DocumentView.aspx?DocID=169566>.

¹⁵⁸ Interviews and focus-group discussions, September–October 2022.

¹⁵⁹ All the cases brought to the court in 2021 under the article of "grave insult" are for insulting Nikol Pashinyan, Lusine Hakobyan, Hetq.am, 5 March 2022, <https://hetq.am/hy/article/141754>.

¹⁶⁰ On July 6, the public presentation of the draft National Strategy for Combating Disinformation took place, Public Relations and Information Center, <https://iprc.am/սոցիալական/հոսիս-6-ին-կայացավ-այսպես-նշանակալի/2638/>.

public awareness raising and education to improve media literacy and build public resistance to misinformation.¹⁶¹

Specific recommendations in this Area are as follows:

- That the Government maintains its commitment to consulting with CSOs and media organisations on media-related legislation in its early stages and applies a comprehensive approach to the media reforms based on the concept jointly developed with civil society; and
- That the mechanisms to address hate speech and disinformation are implemented consistently and without any discrimination, and the measures against disinformation are developed in consultation with CSOs and in line with international standards.

3.7 Right to Privacy

Overall score per area: **4.9 / 7**

Legislation: **5.8 / 7**

Practice: **3.9 / 7**

The right to privacy is protected by Armenian legislation. However, several problems have been reported in practice. There is a lack of awareness and capacity to manage personal data both among state servants and the public. Limited accountability on the investigation of data leaks, as well as lack of oversight of the lawfulness of surveillance activities, provides grounds for distrust towards the ability of the Government to protect the right to privacy in practice. In 2022, capacity-building activities were implemented for state servants on personal data management, and fewer incidents of data leaks took place. The new OGP Action Plan envisages the improvement of the data management system through a better legislative framework and digital tools, but the implementation of this plan is yet to be seen. Based on these developments, a slight improvement was reported in the practice score, which brought the overall score in the area of Right to Privacy from 4.8 to 4.9 for 2022. The recommendation on more careful handling of data to protect the right to privacy and excluding data leaks remains in place, and a new recommendation has been added to ensure that the legislative framework on surveillance activities is in accordance with the international standards and that its provisions are followed in practice.

¹⁶¹ National Strategy for the Fight Against Disinformation 2022-2024 (draft), http://www.foi.am/u_files/file/DOCs%202022/Strategy_FOICA_CIFE_ENG.pdf.

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

The legislation guarantees the right to privacy and adequate protection against interference or attacks on privacy. The Constitution of Armenia acknowledges the right of every person to the inviolability of his or her private and family life, honour, and reputation, as well as the right to the protection of their personal data. The right to inviolability of private and family life may be restricted only by law: for the purposes of state security, the economic welfare of the country, preventing or disclosing crimes, protecting public order, health and morals or the basic rights and freedoms of others.¹⁶² The Criminal Code sets out liability for the use, realisation or disclosure of information constituting personal or family secrets of a person without his/her consent, or acquisition or storage of that information with the aim of using, realising or disclosing that information in violation of the manner established by law.¹⁶³ The Administrative Procedure Code sets out a number of administrative sanctions for violating the provisions of the Law on Personal Data Protection, including fines from 50,000 up to 500,000 AMD (around 125-1,250 EUR), in cases where the violation is not subject to criminal liability.¹⁶⁴

The Law on the Protection of Personal Data regulates the procedure and conditions for the handling of personal data and exercising state oversight of these data. According to the law, the processing of personal data must pursue a legitimate aim, and the means to achieve this aim must be appropriate, necessary, and moderate.¹⁶⁵ The Personal Data Protection Agency, established under the Ministry of Justice in 2015, is authorised to oversee the implementation of the legal requirements for the protection of personal data, maintain a registry of organisations processing personal data and provide protection of the relevant rights. The Agency provides consultations, initiates administrative proceedings on the basis of citizens' applications, provides opinions on the compatibility of laws and legal drafts on the principles of privacy, as well as organises awareness-raising events and publishes guides for citizens on how to protect their privacy.¹⁶⁶

Although the Law on Personal Data Protection contains enabling provisions in line with international law, the enforcement and remedy mechanisms are weak, thus in practice these provisions are hardly met. Legal acts dealing with personal data issues are not fully brought into compliance with the provisions of the Law on Personal Data Protection and are often outdated as they do not take into account digital

¹⁶² RA Constitution, 05.07.1995, amended on 06.12.2015, Article 31.

¹⁶³ RA Criminal Code, 05.05.2021, Article 204.

¹⁶⁴ RA Administrative Procedure Code, 05.12.2013, Article 189.17.

¹⁶⁵ RA Law on the Protection of Personal Data, 18.05.2015, last amended 09.07.2019, Article 5, <https://www.arlis.am/DocumentView.aspx?DocID=132745>.

¹⁶⁶ See the 2020 Activity Report of the Agency for Protection of Personal Data, Ministry of Justice, <https://www.moj.am/page/610>.

developments. At the same time, the representatives of government agencies and state institutions, as well as CSOs, lack relevant knowledge and skills. The new OGP Action Plan acknowledged that the policy and institutional arrangements on data and information systems are fragmented and outdated and introduced a commitment on data policy legislation to regulate data collection and usage, address personal data management issues, and promote data digitalisation through establishing a comprehensive rights-based and citizen-focused data management system.¹⁶⁷

In comparison to 2021, there were less data leak incidents in 2022. While following up the problems that occurred with data management and leakage in 2020-2021, the Government initiated a series of trainings for public servants, conducted by area experts from civil society.¹⁶⁸

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

The legislation is basically compliant to the right to privacy of CSOs; there are concerns with its implementation in practice, however. The reporting requirements for public organisations and foundations do not contain any provisions on disclosing the names of their staff, except for the executive head. In the reporting form for foundations, the names of the founders and members of the Board of Trustees are also required to be published in case they have received any assets and services from the foundation during the reporting year.¹⁶⁹

Searches in office premises or surveillance can be carried out only by a court decision, except for in urgent cases when a delay may lead to the actions of terrorism or threaten state security. In such cases, the NSS can carry out surveillance within a 48-hour period before a court decision is secured.¹⁷⁰ In July 2022, the police service published a new draft law on Operational Intelligence Activity for public consultation.¹⁷¹ According to CSOs, the draft contained risky provisions in terms of violation of the right to privacy. The draft does not require the body conducting the operational intelligence activity to justify in court that it is reasonably impossible to collect the information necessary to complete the tasks assigned to it, and does not specify a requirement to present the telecommunication service providers with the

¹⁶⁷ RA Government Decision N 1568-L “On approving the 2022-2024 Action Plan of the Republic of Armenia in the framework of the Open Government Partnership initiative, 06.10.2022.

¹⁶⁸ Interview, October 2022.

¹⁶⁹ RA Law on Foundations, 26.12.2002, Article 39.

¹⁷⁰ RA Law on Operational Intelligence Activity, 22.10.2007, last amended 09.06.2022, Article 32 and 34, <https://www.arlis.am/DocumentView.aspx?docid=165027>.

¹⁷¹ Draft Law on Operational Intelligence Activity, Unified Website for Publication of Legal Acts’ Drafts, <https://www.e-draft.am/projects/4538>.

decision of the court, as well as containing other problematic provisions.¹⁷² As of December 2022, there is no further information on revision of the draft law.

In practice, experts and CSOs are doubtful about the legitimate use of surveillance powers by the NSS and law enforcement bodies as there are no oversight and accountability mechanisms for surveillance activities or transparent investigations of data leaks. Some CSOs expressed a belief that they have been surveilled by state bodies without court authorisation. There were, however, no reports of cases of law enforcement representatives breaking into CSOs' offices or accessing CSOs' documents without due judicial authorisations.

Specific recommendations in this Area are as follows:

- That the Government implements necessary measures for more careful handling of data to protect the right to privacy and exclude the possibility of any data leaks, including through improving the resources and capacity of the Personal Data Protection Agency and outsourcing CSOs to implement awareness-raising and capacity-building activities; and
- That the Government ensures that the legislative framework on surveillance activities is developed in accordance with international law and in consultation with CSOs, while its provisions are followed in practice, with transparent and accountable measures in case of non-compliance.

3.8 State Duty to Protect

Overall score per area: **4.6 / 7**

Legislation: **5.3 / 7** | Practice: **3.9 / 7**

CSOs are provided with legal mechanisms to protect their rights and present public interests in the court on environmental issues and on the rights of people with disabilities. However, a number of complicated preconditions significantly restrict the exercise of this right in practice. In 2022, environmental CSOs succeeded in bringing a lawsuit before the court for the first time since 2017 when this first became possible.

The protection of CSOs and their affiliated persons is not sufficient. CSOs working in sensitive areas are subjected to harassment and threats. Several organisations and activists were engaged in lawsuits by third parties, which

¹⁷² Opinion about the Draft Law on Operational Intelligence Measures: if the draft is adopted with this content, it can violate or groundlessly restrict the right to respect for private and family life, as well as the right to respect for correspondence, Helsinki Citizen Assembly-Vanadzor, 28 July 2022, <https://hcav.am/en/e-draft-ohm/2022/>.

has negatively impacted their activities and resources. These negative developments accounted for the decrease in the practice score and consequently the overall score in the area of State Duty to Protect from 4.7 to 4.6.

The requirement to declare beneficial owners of legal entities will enter into force in 2023 for non-profit organisations. Many CSOs are not aware of the requirement and the possible types/framework of beneficial owners they have to declare. The recommendation for awareness-raising on the beneficial ownership declaration requirement and more effective protection of CSOs have been reconfirmed from the previous CSO Meter report. In addition, a new recommendation is proposed to take legislative and practical measures against SLAPPs, which are alarming, especially in terms of suppressing environmental activism.

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

According to the law, the state ensures the protection of the rights and lawful interests of public organisations.¹⁷³ In accordance with its charter objectives, a public organisation has the right to represent and defend the rights and lawful interests of its members, beneficiaries, and volunteers in other organisations, in the court and in the bodies of state government and municipal bodies.¹⁷⁴ A foundation also has the right to act as a plaintiff or defendant in court.¹⁷⁵ 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 government body, including when they have encountered impediments to exercise these rights and freedoms, or have not been provided with the necessary conditions to do so.¹⁷⁶

Public organisations can present public interest cases in court on matters of environmental protection and disability rights, if the organisation applying to the court complies with a number of requirements. In particular, in the case of environmental issues, the application should be based on the goals of the organisation as defined in its charter, the applicant should either have participated in public consultations related to the disputed subject or have not been given a chance to participate in public consultations and, finally, the applicant should have been active in the environmental protection area for at least two years before filing the application.¹⁷⁷ The pre-conditions for protection of disability rights include the following: the protection of the rights of persons with disabilities is defined in the organisation's charter as the goal of the organisation; a simple majority of the

¹⁷³ RA Law on Public Organisations, 16.12.2016, Article 9.

¹⁷⁴ RA Law on Public Organisations, 16.12.2016, Article 16.

¹⁷⁵ RA Law on Foundations, 26.12.2002, Article 3.

¹⁷⁶ RA Administrative Procedure Code, 05.12.2013, Article 3.

¹⁷⁷ RA Law on Public Organisations, 16.12.2016, Article 16.

organisation's members are persons with disabilities; and the organisation has been active in the field for at least two years prior to the moment of filing the lawsuit.¹⁷⁸ In 2022, after several years of struggle and based on a decision of the Court of Appeal, CSOs were able to bring a lawsuit on an environmental cause before the court, and currently court hearings are in process.

In recent years, CSOs and associated persons have been repeatedly subjected to harassment, hate speech, and attacks by third-party organisations and groups. Most often, organisations working in the areas of LGBTQ+ rights, domestic violence, women's rights, as well as watchdog organisations, and those funded by OSF, are subject to attacks.

The trial against Sashik Sultanyan, a CSO leader working in the area of protecting national minority rights, accused of actions aimed at the incitement of national, racial or religious hatred, continued in 2022, despite a number of statements and addresses by local and international organisations.¹⁷⁹ In 2022, two lawyers applied to the court with a claim to close OSF Armenia's office on the grounds that this organisation provided support to Sultanyan's CSOs, thus claiming that they are engaged in unlawful activities. The court proceedings on this case started in October 2022.¹⁸⁰ This process might be interpreted as another attack against OSF, and/or an attempt to drain its resources. The attack on the OSF office in 2020 is still at the investigation stage, and OSF representatives highlight procrastination and a lack of effectiveness in the investigation process.

CSOs and activists, particularly those engaged in environmental activism or watchdog activities in communities, often face threats and harassment by third parties, but mention that they do not receive sufficient protection by law enforcement.¹⁸¹ Several court processes were initiated by mining companies against environmental activists (mostly on the grounds of defamation and insult), which, according to CSOs, are aimed at silencing and stalling environmental protests (see also Area 5: Right to Participation in Decision-Making).

CSOs working to protect LGBTQ+ rights report massive amounts of hate speech and calls to violence addressed at their staff and beneficiaries, as well as physical attacks on transgender and other LGBTQ+ persons.¹⁸² The situation has aggravated in 2022 in the context of general social tension and the spread of hate speech. These CSOs tend to be less public to protect their beneficiaries from further attacks, while the state does

¹⁷⁸ RA Administrative Procedure Code, 05.12.2013, Article 216.6.

¹⁷⁹ For more information, see: Opinion: High stakes for Armenian democracy in rights defender's trial, by Anahit Chilingaryan, OC Media, 20 June 2022, <https://www.hrw.org/news/2022/06/21/high-stakes-armenian-democracy-rights-defenders-trial>.

¹⁸⁰ Discussions with CSO Meter Hub members, October 2022.

¹⁸¹ Focus group discussions, October 2022.

¹⁸² Annual Report: Human Rights Situation of LGBT People in Armenia During 2021, "Pink" Human Rights Defender NGO, May 2022, https://www.pinkarmenia.org/wp-content/uploads/2022/05/lgbtreport2021_en.pdf.

not take any steps to prevent or condemn such hate speech and violence. Though several proceedings were initiated by law enforcement on the basis of CSOs' claims, there is a lack of effective investigation, and CSOs often face procrastination, ignorance or biased treatment from the police.¹⁸³

In 2019, the Ministry of Justice developed and discussed with stakeholder CSOs the draft law "On Ensuring Equality"¹⁸⁴ that aimed to address discrimination and establish a Council of Equality to ensure protection from any type of discrimination. However, as of November 2022, there has been no progress in its discussion and adoption process and the gaps in the proposed draft do not allow the discrimination issues to be fully addressed.¹⁸⁵ At the same time, the new Criminal Code specifies hatred, intolerance or hostility based on racial, national, ethnic or social origin, religion, political or other views or other personal or social circumstances as an aggravating condition for a number of offences, thus partly addressing the discrimination issues¹⁸⁶ (while the previous Code only mentioned racial, national, and religious hatred as an aggravating condition).

Standard II. Measures used to fight extremism, terrorism, money laundering or corruption are targeted and proportionate, in line with the risk-based approach, and respect human rights standards on association, assembly, and expression.

The legislation provides targeted, proportionate regulations for fighting terrorism, money laundering and corruption in line with the risk-based approach. The Law on Combating Money Laundering and Terrorism Financing¹⁸⁷ requires reporting entities (such as banks, credit organisations, notaries, and the State Register) to carry out customer due diligence, introducing risk management procedures that will identify and evaluate potential or existing risks and ensure that adequate measures are taken, and report to the state-authorized body any relevant risks that are identified. A few CSOs note that excessive documentation was required from banks for opening an account or receiving donor funds, such as requiring copies of the founders' passports, a copy of the grant project contract, etc., depending on the bank's internal procedures and risk assessment results.¹⁸⁸

Based on the legislative amendments adopted in 2021, which introduced a requirement of registration of the UBOs of all legal persons, non-profit organisations are required to declare their beneficial owners starting in 2023 (see also Area I:

¹⁸³ Interviews, October 2022.

¹⁸⁴ Draft laws of the Republic of Armenia "On National Minorities", "On Ensuring Equality" and related laws, Unified Website for Publication of Legal Acts' Drafts, <https://www.e-draft.am/projects/1801>.

¹⁸⁵ Electronic communication with an Advisory Board member working in human rights area, November 2022.

¹⁸⁶ RA Criminal Code, 05.05.2021.

¹⁸⁷ RA Law on Combating Money Laundering and Terrorism Financing, 26.05.2008, last amended 09.06.2022, <https://www.arlis.am/DocumentView.aspx?DocID=165132>.

¹⁸⁸ Interviews and focus group discussions, September-October 2022.

Freedom of Association).¹⁸⁹ Not all CSOs that participated in the focus-group discussions were aware of this requirement, while most of them were uncertain what information they should provide, as the definition of UBO was preliminary designed for the business context,¹⁹⁰ while the term “real beneficiaries” (used in Armenian legislation to denote the concept of beneficial owners) is confusing for CSOs that perceive the concept of beneficiaries mainly as their target groups/recipients of their services.¹⁹¹ The declaration of beneficial owners is free of charge; however, to register changes to beneficial owners’ data, legal entities are required to pay 10,000 AMD (25 EUR), which can become a disproportionate burden for CSOs.

Specific recommendations in this Area are as follows:

- That the Parliament makes the necessary legislative changes to expand the possibilities for CSOs to represent public interests in the courts on cases within the scope of their goals and ensures that they can use this right in practice through alleviating any excessive requirements and related bureaucratic procedures;
- The state should provide adequate protection from hate speech and attacks targeting CSOs, including through establishing an anti-discrimination body, issuing public statements, and ensuring proper investigation of attacks against CSOs and activists within a reasonable timeframe, as well as through taking legislative and practical measures against SLAPPs;
- That the Central Bank implements awareness-raising activities on government regulations on anti-money laundering and terrorism financing risk management procedures, particularly in relation to CSOs; and
- That the Ministry of Justice and the State Register implement awareness-raising activities and prepare relevant guidelines on the new requirement for CSOs to disclose their UBOs, as well as to dismiss the fees for updating this information.

¹⁸⁹ Amendments to the RA Law on State Registration of Legal Entities, Separate Subdivisions of Legal Entities, Institutions and Private Entrepreneurs, 03.06.2021, <https://www.arlis.am/documentview.aspx?docid=153756>.

¹⁹⁰ According to the law, the beneficial owner of a legal person is the natural person who:

a. directly or indirectly owns 20 or more percent of the voting shares (stocks) of the given legal entity or directly or indirectly has a 20 or more percent participation in the legal entity's statutory capital,

b. exercises real (factual) control over the given legal entity by other means,

c. in the event that there is no natural person meeting the requirements of sub-points "a" and "b", the beneficial owner of the legal entity is the official person carrying out the general or current management of the activities of the legal entity. Source: RA Law on Combating Money Laundering and Terrorism Financing, 26.05.2008, Article 3.

¹⁹¹ Interviews and focus group discussions, September-October 2022.

3.9 State Support

Overall score per area: **4.1** / 7

Legislation: **4.2** / 7

Practice: **3.9** / 7

There is a longstanding procedure and practice of allocating state funding to CSOs by several ministries, mostly through grant provision mechanisms. In contrast to state bodies, local governments provide limited funding to CSOs, often on a discretionary basis. The tax benefits for CSOs and donors are limited, while the procedure of tax exemption for charitable projects is long and complicated. Volunteer work is widely practiced, but legislative gaps on clear definitions of and incentives for volunteering remain.

No significant changes were noted in this area and the score remained the same as in 2021. The electronic platform on grant application was functional throughout the year, allowing applications to be submitted online. However, many CSOs find the platform complicated and containing technical problems. The Ministry of Finance provided assistance to CSOs addressing their questions and guiding them in the application process via several meetings.

The recommendations from the previous years on enlarging the scope of state funding, setting transparent and competitive mechanisms for local budget funding, creating a more favourable tax environment for CSOs and their donors, and addressing the legislative gaps on volunteering remain in place.

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

According to the procedure of providing subsidies and grants to legal entities from the state budget, the organisation receiving a grant is selected as a result of a competition, while the subsidy is allocated on the basis of a subsidy agreement between the state body and the organisation.¹⁹² The funding provided to CSOs is predominantly done in the format of grants for a one-year period based on the annual budget of the grant-giving body. As a rule, most of the state funding is provided for social, educational, cultural and sport projects. For example, many social services are outsourced to CSOs in the competition-based grant format. The practice of outsourcing services to CSOs through procurement contracts is very limited. Some CSOs which received funding mention incidents of delayed transfers by state bodies in 2022. Among other

¹⁹² RA Government Decision No. 1937-N "On approving the procedure for providing subsidies and grants to legal entities from the state budget of the Republic of Armenia", 24.12.2003, last amended 06.08.2021, <https://www.arlis.am/DocumentView.aspx?docid=155096>.

problems, this caused delays in staff salary payments in violation of the Labour Code and subsequent charges (unless organisations could provide their own contribution from other grants or savings, which was not always possible). CSOs also note that state servants usually lack the capacity and skills in monitoring grant projects. Organisations engaged in social projects mentioned that they had been involved in disputes with the funding agency around the issue of keeping their beneficiaries anonymous.¹⁹³

Local governments can also allocate funding to CSOs through a separate budget line. Most often, municipalities provide funding to social and youth organisations, in many cases for one-time events such as festivals or humanitarian assistance.¹⁹⁴ Generally, the practice of outsourcing services to CSOs from the community budget is very limited. In-kind support at the local level is mostly limited to the allocation of a space in a community-owned building.

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

State support at the national level is provided on a competitive basis and is regulated through a detailed procedure and criteria. However, support from the local budgets is discretionary and lacks accountability. The procedure on providing state subsidies and grants to legal entities regulates the grant announcement process and organisation of activities of the grant selection committee in detail, including provisions on conflict-of-interest issues, transparency in the selection process, and setting the selection criteria, which were based on the suggestions provided by CSOs during the consultations on the draft procedure. It also specifies that grant competitions, contracting, and reporting should be conducted through an electronic system.¹⁹⁵ The Electronic Public Procurement System at www.armepps.am is used for submitting grant applications and publishing information about grant contracts. The Ministry of Finance has published on its website guidelines for platform users, as well as for bodies organising grant competitions.¹⁹⁶ However, the structure and language of the platform is not user-friendly for CSOs as it was primarily designed for procurement transactions.

CSOs mention that submitting applications electronically facilitated the process in terms of saving time and resources needed for handling hard copies (especially for regional organisations). However, the effort they put in to understand the

¹⁹³ Focus-group discussions, October 2022.

¹⁹⁴ Interviews and focus-group discussions, September–October 2022.

¹⁹⁵ RA Government Decision No. 1937-N "On approving the procedure for providing subsidies and grants to legal entities from the state budget of the Republic of Armenia", 24.12.2003.

¹⁹⁶ Guides, Manuals, Ministry of Finance of the Republic of Armenia,

https://www.minfin.am/hy/page/uxecuyc_dzernark/

requirements, solve technical issues, and provide the documentation needed is very burdensome, especially in comparison to the donor grant application processes. As a result, a number of CSOs who participated in the interviews and focus-group discussions mentioned that they made a decision not to apply to state grants because of the complexity of the process. In addition, CSOs mention that the platform has technical problems, which sometimes caused loss of data and other issues. On the positive side, the Ministry of Finance organised several meetings with CSOs to clarify any unclear issues and answer their questions on the use of the platform and submitting applications electronically, and assuring CSOs that the technical issues will be resolved with the modernisation of the procurement platform.¹⁹⁷

As mentioned above, the information about funded organisations and provided amounts is published online at armeps.am. However, the contracts are in PDF format, while the search filters do not allow for easy identification of the CSOs that have received a grant funding or procurement, since all types of recipients are displayed under each type of procurement procedure (and the grant tenders are technically treated as a type of procurement procedure). Some ministries also publish information on provided grants on their websites. There is no competitive mechanism for local level funding, and the allocations from municipalities are mostly provided on a discretionary basis, based on the applications. CSOs mention the lack of transparency on the process as well as any mechanism for monitoring and accountability of the funded initiatives. In-kind support, such as allocation of an office space, is also done in a discretionary manner. According to the legal requirements, the decisions of community councils, including those on allocating financial or non-financial support to organisations, have to be published on the websites of communities with over 3,000 inhabitants. However, these decisions are usually published in PDF format.

Standard III. CSOs enjoy a favourable tax environment.

The tax legislation is generally not favourable for CSOs, although they do enjoy a few benefits. According to the Tax Code, assets, works, and services received gratuitously by non-profit organisations are not profit taxed.¹⁹⁸ At the same time, in-kind donations are taxed with VAT, with the tax calculation base accounting for eighty per cent of the value of the donated assets.¹⁹⁹ The law provides VAT exemption for gratuitous supply of goods, performance of works and/or provision of services by public, charitable and religious organisations, other specific educational and social services, as well as for the supply of goods, performance of works and/or provision of

¹⁹⁷ Interviews and focus-group discussions, CSO Meter Hub discussions, September-October 2022.

¹⁹⁸ RA Tax Code, 04.10.2016, Article 108.

¹⁹⁹ RA Tax Code, 04.10.2016, Article 62.

services in the framework of subsidies, subvention or grant projects that have a preliminary approval of the relevant government commission.

CSOs pay income taxes for their staff in the same manner as private companies. There are no tax incentives for CSOs' economic activities, and, in cases of direct entrepreneurship, CSOs cannot enjoy the simplified tax regimes that small businesses do (see also Area 2: Equal Treatment). Non-profit organisations are not obliged to charge VAT on their goods and services in instances where their annual turnover from all types of activities does not exceed of 115 million AMD (around 287,500 EUR).²⁰⁰ According to the Law on Charity, benefits such as tax exemptions, duties, and mandatory payments are provided to charitable projects in the manner prescribed by law.²⁰¹ Government decisions on charitable projects set out the procedure for qualifying projects as 'charitable', as well as relevant procedures on presenting applications, making decisions, oversight of charitable projects, and revising the charitable qualification.²⁰² Charitable status is provided for specific projects through their duration but can be revised in cases where issues are identified during the implementation, for example, false information in project documentation or legal infringements.²⁰³ Where a project is given charitable status, the organisation has to provide an annual report on its activities to the authorised body. The authorised body that makes decisions and carries out other relevant functions as per the Procedure of Qualifying and Registering Charitable Projects is the Deputy Prime Minister's Office, which should make the decision based on the recommendation of the Advisory Commission on the Coordination of Charitable Projects.²⁰⁴

In practice, monetary donations to CSOs are not profit taxed as provided by law. The VAT is taxed for the economic activities in case the annual income (including income from other types of activities such as grant projects) surpasses the threshold set by law. The procedure of getting the status of charitable project and further tax exemptions is complicated and time-consuming; CSOs involved in charitable projects mention that the current legislation and practice seem to be based on the 'presumption of guilt', as charitable CSOs need to continuously 'prove' that they are not engaged in fraud.²⁰⁵ Few CSOs are engaged in direct economic activities, with the unfavourable tax regime serving as one of the reasons for this.

²⁰⁰ RA Tax Code, 04.10.2016, Article 59.

²⁰¹ RA Law on Charity, 08.10.2002, last amended 21.06.2018, Article 16, <https://www.arlis.am/DocumentView.aspx?DocID=123353>.

²⁰² RA Government Decision No. 66-N "On Charitable Projects" 16.01.2003, last amended 31.01.2019, <https://www.arlis.am/DocumentView.aspx?DocID=128100>.

²⁰³ The Procedure of Qualifying and Registering Charitable Projects, Appendix 1 to the RA Government Decision No. 66-N "On Charitable Projects", 16.01.2003, Article 28.

²⁰⁴ 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, last amended 20.01.2022, <https://www.arlis.am/DocumentView.aspx?DocID=159652>.

²⁰⁵ Focus group and communication with charitable CSOs, October 2022.

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

The tax benefits provided for donations are insufficient for stimulating large and frequent donations. There is only one measure that provides tax benefits for corporate donations: assets, work or services provided to non-profit organisations, but not more than in the amount of 0.25 per cent of the gross income of the reporting year are deducted from the taxable base of profit taxpayers.²⁰⁶ As mentioned above, in-kind donations of companies are taxed with VAT (if there is no special governmental decision on VAT exemption), with the tax calculation base accounting for eighty per cent of the value of the donated assets.²⁰⁷ In practice, there are a number of business companies that allocate funds for social, educational, and humanitarian issues; they prefer to implement such programs directly or through their own foundations rather than allocate funding to CSOs, however.²⁰⁸

Standard V. Legislation and policies stimulate volunteering.

The legislation does not provide a clear definition of, or incentives for volunteering. The Law on Public Organisations defines the right and the procedure for involving volunteers in the work of a 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.²⁰⁹ According to the Law on Charity, volunteers are individuals who perform gratuitous work for charity beneficiaries.²¹⁰ The Labour Code mentions that voluntary work and assistance cannot be considered illegal.²¹¹ The fragmented regulations on volunteers do not cover some of the aspects related to the taxation of volunteer cost compensation, the involvement of volunteers in foundations, issues of liability and the involvement of international volunteers. The Ministry of Labour and Social Affairs developed a draft of a law on volunteering to regulate the concept of volunteerism, volunteer rights and responsibilities, compensation for costs and other issues, with the latest version of the draft presented for public consultation in 2020.²¹² However, there was no progress on the draft by mid-November 2022. According to the Ministry of Labour and Social Affairs, the

²⁰⁶ RA Tax Code, 04.10.2016, Article 123.

²⁰⁷ RA Tax Code, 04.10.2016, Article 62.

²⁰⁸ The Current State and Changing Role of Civil Society in Public Policy Processes: Research Report, Center for Educational Research and Consulting, 2022.

²⁰⁹ RA Law on Public Organisations, 16.12.2016, Article 17.

²¹⁰ RA Law on Charity, 08.10.2002, Article 9.

²¹¹ RA Labour Code, 09.11.2004, last amended 05.10.2022, Article 102, <https://www.arlis.am/DocumentView.aspx?docid=169568>.

²¹² RA Draft Law on Volunteerism and Volunteer Work, Unified Website for Publication of Legal Acts' Drafts, <https://www.e-draft.am/projects/2516>.

package of the draft laws related to volunteering activities was presented to the Staff of the Prime Minister and is in the process of being discussed.²¹³

In practice, CSOs largely engage volunteers in their work, and there is a widespread acknowledgment of volunteering as a concept, especially among youth, who consider volunteer work as a possibility to get work experience and/or to serve a specific cause or community. CSOs do not face restrictions for engaging foreign volunteers or sending volunteers abroad, though there are some bureaucratic obstacles to overcome since there is a lack of relevant regulation on foreign volunteers. Volunteering experience is often acknowledged by employers and universities.

Specific recommendations in this Area are as follows:

- That the Government: enlarges the scope of state funding to CSOs, including increasing the number of state authorities providing state funding and increasing the grant funding and service outsourcing amounts and practices; ensures transparent, competitive and accountable funding allocation on both national and local levels, including through modernising the electronic platform for grants to ensure its smooth and effective use; adopts regulations mandating transparent and competitive allocations from local budgets; and improves the grant administration and monitoring skills of relevant state servants;
- That the Government, particularly the Ministry of Finance, and the Parliament create a more favourable tax environment to improve CSOs' possibilities to seek funding and in-kind support from diverse sources including individual and business donations and direct entrepreneurship activities. In particular:
 - Simplify the procedures for charity tax exemptions to allow timely and efficient transactions to be made for charitable purposes;
 - Provide more beneficial taxation schemes for CSOs engaged in economic activities to encourage their efforts towards self-sustainability;
 - Consider best international practices to stimulate CSO activities through more favourable taxation measures;
 - Provide meaningful tax deductions for individual and business donations²¹⁴ and dismiss the VAT taxation requirement for in-kind donations to CSOs; and

²¹³ Letter by the Ministry of Labour and Social Affairs, dated 31.10.2022.

²¹⁴ For example, in Poland, Bulgaria, and Czechia, the corporate donations are tax deducted to up to 10% of the tax base, see: "Tax Benefits Stimulating Philanthropy: Comparative Research", July 2021, European Center for Not-for-Profit Law, <https://ecnl.org/sites/default/files/2021-07/Final%20ECNL%20Tax%20benefits%20stimulating%20philanthropy%20July.pdf>.

3.10 State-CSO Cooperation

Overall score per area: **4.0 / 7**

Legislation: **4.3 / 7**

Practice: **3.6 / 7**

Cooperation between the state and CSOs is covered by the legislation on participation in policy-making and government decisions on the set-up and activities of various consultative bodies and joint groups. The importance of collaboration and/or engagement of CSOs is reflected in various national plans and strategies. However, there is no specific policy or strategy on CSO development or state-CSO cooperation.

The functionality and effectiveness of public councils and other consultative bodies often depends on the political will of the given agency. Joint working groups in the framework of specific policies or initiatives allow grounds for more substantial and meaningful collaboration to be established.

The overall score of the area of State-CSO Cooperation remained the same as in 2021. The recommendations from the previous CSO Meter report in this area remain in place: the development and implementation of a comprehensive strategy on cooperation with the civil society sector, effectively utilise the potential of consultative bodies and increase the cooperation in the format of joint working groups.

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

State-CSO cooperation is not regulated by any policy or strategy in Armenia, and there are no state strategies on CSO development which would assist more effective partnerships and joint efforts towards the growth of the CSO sector. The state-CSO cooperation framework is covered by several laws and strategies setting participation opportunities for CSOs.

Following the findings of the CSO Meter 2021 report, TIAC has initiated discussions in cooperation with other Armenian CSOs and government agencies on a draft roadmap on improvement of the CSO enabling environment.²¹⁵

Provisions on collaboration with CSOs are included in the Anticorruption Strategy, the Strategy for the Implementation of Gender Policy, the National Strategy for Human Rights Protection, as well as legislation regulating the establishment and activities of multi-stakeholder committees and joint working groups. These documents were developed with CSO participation, with various levels of implementation and monitoring. In 2022, the development process of the new Anticorruption Strategy for 2023-2026 has been carried out in partnership with a CSO and the engagement of civil society stakeholders.²¹⁶

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

The Constitution includes a provision on the establishment of a Public Council (Public Chamber) as an advisory body to the government.²¹⁷ The functions of this body include representing the interests of different sections of society in policy making and implementation, facilitating civil society participation in public administration processes, and identifying public opinion on issues of public interest, including laws and other normative legal acts, state programmes, strategies, concepts and their drafts.²¹⁸ The Law on the Public Council regulates the key principles of the operation and membership of the Public Council. The Public Council is composed of forty-five members, fifteen of whom are appointed by the Government and fifteen who are recruited through a rating-based selection process from various entities. Following that, the elected thirty members nominate and elect the remaining fifteen members. The Chairman of the Public Council is elected by the Prime Minister.²¹⁹

In practice, no information on Public Council activities is available after the resignation of the chairman in June 2021.²²⁰ The Public Administration Reform Strategy adopted in 2022 has outlined the issue of non-functioning of the Public Council and other similar platforms and envisaged steps for its improvement through the “creation of a consultative body, which will be mandated not to carry out broad-

²¹⁵ Armenia: 2021 CSO Meter Country Report presented, CSO Meter, <https://csometer.info/updates/armenia-2021-cso-meter-country-report-presented>; Presentation of the Draft Roadmap on CSO Enabling Environment in Armenia, Transparency International Anticorruption Center, 10.11.2022, <https://transparency.am/en/media/news/article/4756>.

²¹⁶ Process of developing 2023-2026 Anti-Corruption Strategy initiated by Ministry of Justice is launched, Ministry of Justice of the Republic of Armenia, 11.07.2022, <https://moj.am/en/article/3223>.

²¹⁷ Constitution of the Republic of Armenia, 05.07.1995, amended on 06.12.2015, Article 161.

²¹⁸ RA Law on Public Council, 07.03.2018, last amended 11.02.2021, Article 2, <https://www.arlis.am/DocumentView.aspx?DocID=150514>.

²¹⁹ RA Law on Public Council, 07.03.2018, Article 5.

²²⁰ Public Council of the Republic of Armenia, <https://publiccouncil.am/>.

scale and vague discussions, but to take on the mission of mobilising professional potential to serve the development and reform agenda, as an alternative voice and professional "critic" of the governance system."²²¹

In order to ensure civil society participation in the implementation of the objectives and functions of the ministries, public councils adjunct to the ministers were set up in 2016.²²² Based on a government decision, a clause pertaining to public councils was restated in the new exemplary charter for public administration bodies in 2018.²²³ According to the standard rules of procedures, which are adopted by the ministries and regulate principles of public council member selection, meeting regularity, and transparency of operation, the councils have to be established in a transparent manner, and meet at least on a quarterly basis. In practice, only one of the ministries (the Ministry of Education, Science, Culture and Sports) organised regular meetings of the councils in 2022, and five other ministries organised council meetings at least once. Not all ministries publish the minutes of the meetings and annual reports of the public councils' activities as required by law. A major challenge restricting the participation of CSOs in the public councils is the difficulty regional organisations face in attending them, as the meetings are held in Yerevan with no possibility to join through online channels and no funding provided for travel expenses.

Other area-specific councils and committees have been established in recent years by decision of the Prime Minister, or by ministries and other government agencies, including the Anticorruption Policy Council, the Council on Women's Affairs, the Council on Ethnic Minority Affairs, the Child Protection National Committee, etc. The Human Rights Defender of Armenia has also established several consultative bodies and one of them, the Public Council on Women's Rights adjunct to the Human Rights Defender was established in 2022.²²⁴ In addition, consultative bodies are created under the regional and local government bodies. Most of them do not have transparent principles on selection and operation, while their functionality and effectiveness vary depending on the agency. With the support of the United Nations Development Programme's (UNDP) "Women and Youth for Innovative Local Development" project implemented in collaboration with the Ministry of Territorial Administration and Infrastructure, many communities initiated creation of public

²²¹ RA Government Decision N 691-L "On approving the strategy of public administration reforms, the roadmap and result framework for 2022-2024, the list of persons providing monitoring and coordination of the strategy implementation", 13.05.2022.

²²² 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.

²²³ RA Government Decision No. 1552-L "On Amendment to the Decision No. 624-L of the Government of the Republic of Armenia dated May 22, 2018", 27.12.2018, <https://www.e-gov.am/gov-decrees/item/31320/>.

²²⁴ The inaugural session of the Public Council on Women's Rights adjunct to the Human Rights Defender took place, Human Rights Defender of Armenia, 12.09.2022, https://ombuds.am/en_us/site/ViewNews/2339.

councils on women and youth issues aimed at strengthening the civic participation of women and youths in local self-government.²²⁵

CSOs are generally of the opinion that the councils and committees are a useful mechanism for information exchange, but they are often either non-functional or treated as a formality, with no enforcing mechanisms to take into account CSOs' input and proposals. In addition, CSOs highlight that the reports on the work of these consultative bodies are often not available and it would be preferable to have a unified platform for publishing information on the composition and activities of these bodies.²²⁶

Multi-stakeholder working groups have been set up within international initiatives to ensure the commitment to participatory practices within the framework of the OGP²²⁷ and Extractive Industries Transparency Initiative.²²⁸ The Penitentiary Monitoring Group operates under the Ministry of Justice with the aim of exercising public control over penitentiary institutions and bodies, as required by the Law on the Detention of Arrested and Detained Persons²²⁹ and the order of the Minister of Justice.²³⁰ However, no state funding is provided for the operation of the group, thus member organisations seek donor funding or contribute their resources to be able to carry out the work. Other monitoring groups oversee the work of institutions providing treatment and care of people with mental health problems,²³¹ and institutions providing care services for children, the elderly, and people with disabilities.²³² A number of joint working groups are formed on an ad hoc basis around specific legal drafts, the development and implementation of strategies. The format of joint groups is deemed effective by CSOs as it allows for participation on a collaborative basis and thus provides more meaningful input in policy development, implementation and monitoring.

Specific recommendations in this Area are as follows:

- That the Government develops and implements a comprehensive strategy on the civil society sector through joint work with CSOs and international organisations to provide a more enabling environment for CSOs;

²²⁵ Women and Youth for Innovative Local Development, UNDP Armenia, <https://www.undp.org/armenia/projects/women-and-youth-innovative-local-development>.

²²⁶ Focus-group discussions, October 2022.

²²⁷ Group Members, Open Government Partnership Armenia, <https://ogp.gov.am/en/about-the-group/>.

²²⁸ MSG Composition, Extractive Industries Transparency Initiative (EITI) Armenia, <https://www.eiti.am/en/MSG-composition/>.

²²⁹ RA Law on Detention of Arrested and Detained Persons, 06.02.2002, last amended 07.07.2022, Article 47, <https://www.arlis.am/documentView.aspx?docid=166119>.

²³⁰ Order of RA Minister of Justice No. 126-N, 20.03.2020, <https://www.arlis.am/DocumentView.aspx?docid=140628>.

²³¹ Order of RA Minister of Health No. 3757-A, 28.12.2017, <https://www.moh.am/images/legal-106.pdf>.

²³² Order of RA Minister of Labour and Social Affairs No. 112-A/1, 16.10.2018, <https://www.mlsa.am/wp-content/uploads/2017/05/112-A-1-hraman.pdf>.

- That state bodies fully and effectively utilise the potential of consultative bodies, organising regular meetings as required by law, with the possibility for distance participation, and provide efforts to make the CSOs' input more meaningful through engaging them in the early stages of policy-making and incorporating their proposals as far as possible; and
- That the Government and the Parliament increase the practice of using the joint working group format as an effective tool for participatory development and implementation of policies.

3.11 Digital Rights

Overall score per area: **4.5 / 7**

Legislation: **4.9 / 7**

Practice: **4.0 / 7**

The protection of digital rights is provided through the regulations covering freedom of expression, right to privacy, freedom of information, and other relevant legislation. Armenia improved its score in Freedom House's Freedom on the Net report 2022 and is assessed as 'free' in terms of internet freedom. The internet is widely accessible throughout the country, with more measures planned by the Government to improve the supporting infrastructure. There are a number of digital platforms set up by the Government for facilitating access to information and the administration of government services. At the same time, the issues of widespread disinformation on online platforms remained, and the authorities' efforts to address these issues are not satisfactory, though a number of initiatives on fact-checking have been launched by CSOs. Use of technology for surveillance purposes is properly regulated by law and restricted for a narrow set of purposes. However, CSOs suspect that unlawful surveillance of phone and electronic communications takes place in practice. On the positive side, media outlets, governmental and CSO websites faced less cyberattacks this year.

Due to the steps taken by the government to promote digitalisation and internet access, as well as CSO initiatives towards improved media literacy and fact-checking, the situation in the area has slightly improved in 2022. At the same time, the overall score of the area of Digital Rights significantly increased as compared to 2021 (from 4.2 to 4.5) due to the area re-scoring, considered this is still an emerging area for which the qualitative understanding and assessment is evolving.

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

Armenia's legislation lacks a concept of digital rights, but assumes a number of related obligations based on international conventions and relevant human rights-related laws. Armenia has ratified the Convention on Cybercrime, which sets certain responsibilities on the state related to the protection of rights in the cyberspace.²³³ The protection mechanisms in the national legislation are covered in the constitutional provisions, laws and regulations on freedom of expression, freedom of information, right to privacy, personal data protection, cybercrime, etc. The Constitution envisages principles of proportionality and certainty applicable to all restrictions on fundamental rights and freedoms and allows the restriction of specific rights and freedoms under a state of emergency or martial law.²³⁴

There is no specific regulation on artificial intelligence (AI) systems. The Criminal Code sets liability for cyber offences in accordance with the principles declared in the Convention on Cybercrime.²³⁵ As mentioned in Area 6 (Freedom of Expression), public speech aimed at inciting or promoting hatred, discrimination, intolerance or enmity, as well as distributing materials or objects for that purpose, public calls to and public justification or preaching violence, including in online platforms, are also subject to criminal liability.

The Law on Personal Data Protection provides relevant regulations on the use and processing of personal data. The right to freedom and secrecy of correspondence, telephone conversations and other means of communication is guaranteed by the Constitution. Restrictions on this right can be provided only by law, for the purpose of state security, the economic welfare of the country, preventing or disclosing crimes, protecting public order, health and morals or the basic rights and freedoms of others. The secrecy of communication may be restricted only by court decision, except where it is necessary for the protection of state security and is conditioned by the particular status of communicators prescribed by law.²³⁶

According to the Law on Operational Intelligence, surveillance of electronic communications can be carried out only by a court decision, except for in urgent cases when a delay may lead to actions of terrorism or threaten state security. In these cases, the NSS can carry out surveillance within the forty-eight-hour period prior to a court decision being secured.²³⁷ The use of digital technologies by law enforcement bodies is covered by the regulations on using technical means for operational intelligence, which contain safeguards against the violation of right to privacy. Further, a

²³³ The Budapest Convention (ETS No. 185) and its Protocols, Council of Europe, <https://www.coe.int/en/web/cybercrime/the-budapest-convention>.

²³⁴ RA Constitution, amended on 06.12.2015, Articles 76-79.

²³⁵ RA Criminal Code, 05.05.2021, Chapter 38, Articles 359-365.

²³⁶ RA Constitution, amended on 06.12.2015, Article 33.

²³⁷ RA Law on Operational Intelligence Activity, 22.10.2007, Article 32 and 34.

government decision authorises the development of technical tools, both software and hardware, specifically designed to capture information in computer systems and computer networks, and to intercept all forms of electronic communication, including text, voice, and multimedia content.²³⁸ The Law on Electronic Communications obliges all telecommunications operators to provide the law enforcement and national security representatives with access to communication equipment and similar devices in accordance with the legal provisions and procedure to support them in implementation of operational intelligence.²³⁹ Amendments to the Law on Operational Intelligence Activity adopted in June 2022 also obliged the telecommunications organisations “to provide technical systems and create other conditions necessary for the implementation of the operative-investigative measure at the request of the competent authorities”.²⁴⁰ According to the experts, this formulation lacks specificity and provides broad powers to law enforcement. In practice, several CSOs and some experts noted that they do not exclude the possibility of unlawful surveillance by law enforcement and the NSS, especially given the fact that a number of phone tapping records of high-level officials were published in recent years. In 2022, Google confirmed the usage of Predator spyware by the Armenian government.²⁴¹

According to the Freedom on the Net report by Freedom House, Armenia improved its score in 2022 and is assessed as ‘free’ in terms of internet freedom, mentioning in particular widespread internet access, no restrictions in the period of report coverage, and media outlets facing less severe cyberattacks as compared to the previous period.²⁴² Experts note that in 2022 there were also far less cases of cyberattacks and hacking of government and CSOs’ websites as compared to 2021.²⁴³

Social media companies freely operate in Armenia. There are no specific national regulations allowing citizens to seek the government’s protection in case their rights are violated on social media. During the recent aggression by Azerbaijan on the borders of Armenia, the social media platform TikTok and several Azerbaijani websites were not accessible for users of mobile operators for several days.²⁴⁴ However, the Government did not provide any official information on these

²³⁸ RA Government Decision No. 810-N “On setting list of special technical means for conducting operational intelligence”, 31.07.2008, <https://www.arlis.am/documentview.aspx?docID=45845>.

²³⁹ RA Law on Electronic Communications, 08.07.2005, last amended 03.03.2021, Article 50, <https://www.arlis.am/DocumentView.aspx?DocID=152672>.

²⁴⁰ RA Law on Amendments and Supplements to the Law on Operational Intelligence Activity, 09.06.2022, Article 17, <https://www.arlis.am/DocumentView.aspx?docid=164822>.

²⁴¹ Protecting Android users from 0-Day attacks, Updates from Threat Analysis Group (TAG), May 19, 2022, <https://blog.google/threat-analysis-group/protecting-android-users-from-0-day-attacks/>.

²⁴² Freedom on the Net 2022: Armenia, Freedom House <https://freedomhouse.org/country/armenia/freedom-net/2022>.

²⁴³ Interview, October 2022.

²⁴⁴ NetBlocks, TikTok restricted in Azerbaijan and Armenia amid clashes over Nagorno-Karabakh, 14.09.2022, <https://netblocks.org/reports/tiktok-restricted-in-azerbaijan-and-armenia-amid-clashes-over-nagorno-karabakh-3An4pky2>.

restrictions, and there are no relevant grounds defined in the legislation, and thus no mechanism for oversight of the lawfulness and appeal of such decisions.

Standard 2. The state creates conditions for the enjoyment of digital rights.

As mentioned, the legal framework for the enjoyment of digital rights is covered by various relevant laws. In 2021, the Government adopted Armenia's Digitalization Strategy and Action Plan for 2021-2025, which envisaged a number of measures for the digital transformation of the Government, the economy, and society, including: the introduction and development of innovative technologies, cyber security, data policy and e-services and e-government systems; the coordination of digitalization processes; the creation of common standards and a digital environment, initiatives promoting the use of digital technologies in the private sector and by the public; and providing better protection of personal data and intellectual property.²⁴⁵ In March 2022, the Ministry of High-Tech Industry published a report on the implementation of the Strategy, providing information on the activities implemented in 2021.²⁴⁶ In the framework of strategy implementation, several meetings were held with the participation of CSOs and field experts to discuss the process and any challenges of implementation.²⁴⁷ In 2022, the Ministry published a draft strategy on providing large-scale access to broadband internet, aiming to improve the infrastructures and create alternative cables for broadband or high-speed internet in all settlements in Armenia.²⁴⁸ Currently, the internet is widely accessible and affordable in Armenia, particularly for mobile users, as the majority of settlements (99.4 per cent) have internet access provided through mobile operators, while the broadband (fixed) internet is provided in 62.7 per cent of settlements.²⁴⁹

There are a number of digital platforms in Armenia facilitating access to government-held information, providing participation opportunities, and allowing the possibility of submitting electronic complaints. These platforms include e-register.am, providing information on registration and registered entities, as well as the ability to register online (for companies); e-gov.am, providing information on government decisions,

²⁴⁵ RA Government Decision No. 183-L "On approval of Armenia's digitalization strategy, its activities' program and results indicators", 11.02.2021, <https://www.arlis.am/DocumentView.aspx?DocID=149957>.

²⁴⁶ Report on the implementation of RA Government Decision No. 183-L "On approval of Armenia's digitalization strategy, its activities' program and results indicators", 30.08.2022, RA Ministry of High-Tech Industry, <https://hightech.gov.am/Ֆինանսական-տեղեկատվություն/հաշվետվություններ/>.

²⁴⁷ Interview, October 2022.

²⁴⁸ Draft decision of the RA Government "On approving the strategy for ensuring the access to broadband Internet connection in the territory of the Republic of Armenia and the schedule for the implementation of activities deriving from the strategy for 2022-2024", Unified Website for Publication of Legal Acts' Drafts, <https://www.e-draft.am/projects/4084/about>.

²⁴⁹ Analytical statement on the activities to provide fixed connection penetration in the settlements of the Republic of Armenia, Public Services Regulatory Commission of the Republic of Armenia, 2022, https://www.psrc.am/uploads/files/Էլեկտրոնային%20հաղորդակցություն/Ցանցերի%20հասանելիություն/Verlucakan_2022n.pdf.

reports, registers, etc.; arlis.am, a database of all legal acts with amendments incorporated; e-draft.am, a unified platform for publication of legal drafts and collecting comments from the public; e-petition.am, allowing to present petitions online and get supporters, with the mandatory requirement of a response by the relevant government body; and others. Some of these platforms were designed in consultation with CSOs, particularly those that were developed recently in the framework of joint initiatives such as the OGP. The main concern related to the use of these platforms is related to the lack of public awareness on some of them and identification requirements for specific platforms such as e-petition.

Armenian legislation does not regulate the principle of net neutrality, though the national authority, the Public Services Regulatory Commission, has made several announcements about technological neutrality being an important principle of regulation.²⁵⁰ According to the Resolution of the Commission, the telecom operators and service providers must publish and inform their subscribers if they do not support certain protocols or prioritise specific traffic. The Resolution also enshrines that the tariffs for services and conditions should be fully accessible to the public, excluding any discriminatory or discretionary approach to their provision.²⁵¹ However, in practice, telecommunication operators provide free of charge internet for some mobile applications, which might be interpreted as a discriminatory approach.²⁵²

Armenian legislation allows for the protection of violated rights either in an offline or online environment through the filing of a lawsuit, complaint or application to the court, law enforcement body, the supervising body of the respondent, or specialised institutions such as the Agency for the Protection of Personal Data, the Office of the Human Rights Defender, etc. According to the Law on the Protection of Personal Data, if anyone considers that his or her personal data was processed in violation of the legal requirements or his or her rights and freedoms, he or she can appeal to the personal data protection authority or to the court and require compensation for damage.²⁵³

Mainly, CSOs are at the forefront of digital rights education and media literacy with initiatives and projects aimed to address the current gaps in public awareness and media literacy, especially important in the context of wide-spread disinformation. CSOs often collaborate with government bodies within their projects. The Freedom of Information Center of Armenia initiated a Strategy on Combating Disinformation in

²⁵⁰ Understanding digital rights and their importance in the information society, David Sandukhchyan, Media Diversity Institute Armenia, Yerevan 2021, https://mdi.am/wp-content/uploads/2020/10/research_on_digital_rights_in_Armenia.pdf.

²⁵¹ Resolution of Public Services Regulatory Commission 471-N "On approval of the procedure of publication of tariffs and terms for data transmission and internet access services", 03.09.2008, last amended 25.07.2012, <https://www.arlis.am/DocumentView.aspx?DocID=77489>.

²⁵² Interview, October 2022.

²⁵³ RA Law on the Protection of Personal Data, 18.05.2015, Article 17.

collaboration with the Staff of the Prime Minister and other stakeholders²⁵⁴ (see more in Area 6: Freedom of Expression). Since 2017, the Ministry of Education, Science, Culture and Sports has collaborated with the CSO Media Initiatives Center to consolidate efforts in media literacy and, particularly, to integrate media literacy into the new academic standards and programmes.²⁵⁵ A number of fact-checking initiatives are implemented by CSOs to minimize the sharing of false news and raise public awareness on the practices of identifying disinformation.²⁵⁶ In addition, CSOs produced handbooks and manuals to guide users on digital security and fact-checking.²⁵⁷ The public broadcaster regularly broadcasts a programme called ‘Media Literacy’ which covers various topics such as fake news, online safety, fraud, and social media use, etc.²⁵⁸

Specific recommendations in this Area are as follows:

- Law enforcement should ensure the lawful usage of surveillance technologies and provide proper monitoring and investigation of personal data leaks; and
- In collaboration with area organisations, the Government should take proactive steps towards improving digital literacy and usage of digital tools, raising media literacy, and tackling disinformation.

²⁵⁴ On 6 July, the public presentation of the draft National Strategy for Combating Disinformation took place, Public Relations and Information Center, <https://iprc.am/տորոթյուններ/հուլիսի-6-ին-կայացավ-wwwտեղեկատվություն/2638/>.

²⁵⁵ Media Literacy, Media Initiatives Center, <https://mediainitiatives.am/en/medialiteracy/>.

²⁵⁶ See, for example, Fact Investigation Platform (FIP), Union of Informed Citizen, <https://fip.am/en/>; Fact Radar, Public Journalism Club, <https://pjc.am/landing/?lang=en>, Verified, media.am, <https://media.am/hy/category/verified/>.

²⁵⁷ Fact Checking, <http://factradar.tilda.ws/fact-checking>; Digital Footprint: handbook of digital security and e-literacy, All Rights Foundation, https://www.allrights.am/arf_digital_footprint_handbook/.

²⁵⁸ Media Literacy, Public TV Company of Armenia, <https://www.1tv.am/en/program/videos/Media-Literacy>.

IV. KEY PRIORITIES

Overall, there was no significant change in the CSO environment in Armenia in 2022 as compared to 2021. Some of the recommendations of the CSO Meter 2021 have been addressed through the legal regulations on hate speech, decriminalisation of grave insult, addressing improvement of participation mechanisms and institutions in the relevant strategies and action plans, and regulatory initiatives and capacity building in the area of personal data management. However, the challenges reported last year, such as the lack of an enabling taxation environment, violent and unlawful treatment by police during assemblies, flaws in practical implementation of participation mechanisms, and insufficient state protection, still persist and require more measures to be addressed.

In light of this, the following ten recommendations out of total number of 32 recommendations in 11 areas are proposed:

1. That the Government develops and implements a comprehensive strategy on the civil society sector through joint work with CSOs and international organisations to provide a more enabling environment for CSOs;
2. That the Ministry of Finance specifies the type of income included in the turnover serving as a basis for the VAT threshold, considering only the income from economic activities, as well as ensures that non-profit activities are not treated as economic activities;
3. That the state utilises the available institutional mechanisms of participation and ensures meaningful participation through engaging CSOs in the early stages of policy development, addressing the drawbacks of the e-draft platform, providing sufficient time for consultations, organising more frequent face-to-face consultations, including in the regions, and considering and incorporating CSO suggestions to the maximum possible extent;
4. That the Parliament sets mechanisms for mandatory public consultation for the drafts produced by members of parliament and for CSO engagement in the early stages of legal drafts;
5. That the Government enlarges CSO engagement in the policy implementation and monitoring stages through setting institutional mechanisms and ensuring engagement after the adoption of laws, policies, and strategies;
6. That the Government maintains its commitment on consulting with CSOs and media organisations on media-related legislation in the early stages and

applies a comprehensive approach to media reforms based on the concept jointly developed with civil society;

7. That the Parliament makes the necessary legislative changes to expand the possibilities for CSOs to represent public interests in the courts on cases within the scope of their goals and ensures that they can use this right in practice through alleviating any excessive requirements and related bureaucratic procedures;
8. The state should provide adequate protection from hate speech and attacks targeting CSOs, including through establishing an anti-discrimination body, issuing public statements, and ensuring proper investigation of attacks against CSOs and activists within a reasonable timeframe, as well as through taking legislative and practical measures against SLAPPs;
9. That the Ministry of Justice and the State Register implement awareness-raising activities and prepare relevant guidelines on the new requirement on CSOs to disclose their UBOs, as well as dismiss the fees for updating the information on beneficial owners; and
10. That the Government, particularly the Ministry of Finance, and the Parliament create a more favourable tax environment to improve CSOs' possibilities to seek funding and in-kind support from diverse sources, including from individual and business donations and direct entrepreneurship activities.

V. METHODOLOGY

The CSO Meter supports regular and consistent monitoring of the environment in which CSOs operate in the Eastern Partnership (EaP) countries. It consists of a set of standards and indicators in eleven different areas to measure both law and practice. It is based on international standards and best practices. The CSO Meter was developed by a core group of experts from ECNL and local partners from the six EaP countries.

ECNL has worked with the methodology experts RESIS since 2020 on adapting the CSO Meter methodology package to enable both qualitative and quantitative comparisons of the different areas of the enabling environment across the EaP countries and relevant years. The proposal for the model was consulted on and tested with the extended regional CSO Meter Hub via email and online events. With the updated comparison model, we aim to (i) assess the environment for civil society in each of the eleven areas; (ii) enable tracking of developments/progress throughout the relevant years country by country; and (iii) compare the CSO environments regionally.

The country partners, which, together with other CSOs are part of the CSO Meter Hub, conducted the monitoring process and drafted the narrative country report. They also established an Advisory Board in each country, composed of expert representatives of key local stakeholders. The members of the boards have two main tasks: to review the narrative reports and to assign scores for every Standard based on the narrative reports.

This current report covers the period from January to November 2022.

Monitoring process

The monitoring process in Armenia has been conducted through qualitative methods, including desk research, interviews and focus group discussions. The desk research covered relevant legislation, available reports in the area, media and CSO publications, and state responses to enquires. Several discussions were organised with CSO Meter Hub members through in-person meetings and online communication. Twelve experts were interviewed, including one state representatives, one representative of an international organisation, and ten representatives from local CSOs.

Three in-person and one online focus group discussions were conducted with the participation of thirty-four Yerevan and regionally-based CSOs engaged in the social, educational, youth, environmental, human rights, capacity-building, urban planning,

community development, and media spaces, along with other areas of activity. The opinions presented by the experts and CSOs who participated in the research are not fully representative and cannot cover all of the challenges and achievements of the relevant CSO environment. However, the issues presented by the monitoring participants reflect the major developments in the CSO environment in Armenia, complemented by the findings from various reports and analyses.

The draft country narrative report was reviewed by the Advisory Board members in Armenia via online communication and at the in-person meeting held on 25 November 2022. Based on the recommendations of the Advisory Board members, the findings and recommendations were further revised and finalised.

Scoring process

The country researchers and 10 Advisory Board members in Armenia assessed each **Standard of the eleven areas of the CSO Meter tool in Legislation and Practice**. For the scoring procedure a 7-point scale is used. The final score of each standard was then calculated according to a formula in which the researchers score participates with 50 per cent, and the Advisory Board members' average score with 50 per cent. The score of each area is then calculated as the average value of the final scores of each standard and calculated and rounded with one decimal for presentation purposes.

The extreme values of the scale are conceived as the extreme/ideal situation or environment. For example, (1) is an extremely unfavourable (authoritarian) environment for civil society, while (7) is an extremely favourable (ideal democratic) environment for CSOs. For more information on the CSO Meter tool, the scoring process and its calculation please visit: <https://csometer.info/>.

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