

# CSO METER

A compass to conducive  
environment and  
CSO empowerment

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## ARMENIA 2021 COUNTRY REPORT

YEREVAN





European Center for  
Not-for-Profit Law



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# CSO Meter 2021: 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

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AMD	Armenian Dram
CIS	Commonwealth of Independent States
CSO	Civil Society Organisation
EaP	Eastern Partnership
ECNL	European Center for Not-for-Profit Law
EU	European Union
EUR	Euro
GDP	Gross Domestic Product
LGBTI	Lesbian, Gay, Bisexual, Transgender, and Intersex
LSGB	Local self-government body
NGO	Non-Governmental Organisation
NSS	National Security Service
OSF	Open Society Foundations
RA	Republic of Armenia
SLAPPs	Strategic lawsuits against public participation
SRC	State Revenue Committee
TIAC	Transparency International Anticorruption Center
UNDP	United Nations Development Programme
USAID	United States Agency for International Development
VAT	Value Added Tax

# I. EXECUTIVE SUMMARY

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## Country context and important trends relevant to the civil society environment

The forty-four day war in Artsakh (also known as Nagorno-Karabakh) and its consequences left a considerable impact on the overall political, social, and economic situation in Armenia, negatively affecting the civil society organisation (CSO) environment. The state of martial law announced on the first day of the military actions, 27 September 2020, limited freedom of assembly and freedom of expression, while the devastating consequences of the war, bringing about a humanitarian and social crisis, impacted the activities of CSOs in Armenia. Many organisations changed their priorities, raising funds for addressing urgent humanitarian needs, developing new services, and reaching out to new groups of beneficiaries. CSO collaboration with the national and local governments intensified around the provision of assistance to women and children displaced from Artsakh, including food, shelter, educational and healthcare assistance. Further CSO initiatives were directed to allocate assistance to Artsakh families who lost their homes and to the families of killed, wounded and missing soldiers. New initiatives were formed aimed at mobilising citizens around finding solutions to the political and social crisis in the country.

The triparty ceasefire statement signed between Armenia, Azerbaijan, and Russia on 9 November 2020, containing highly disadvantageous provisions for Armenia, along with the thousands of human losses, hundreds of prisoners of war, and continuing aggression by Azerbaijan, triggered deep shock, disappointment, and frustration within Armenian society, raising anti-government sentiment and leading to further protests. Former government representatives attempted to use this momentum to return to the political scene. Their political narratives were accompanied by a smear campaign against CSOs working in human rights, anticorruption, and democracy promotion. A discourse based on democracy and liberal values being a threat to state security and having brought about the defeat in the war was widely disseminated, supposedly by the representatives of former authorities and their affiliated groups. The incumbent government took a self-defensive position and distanced itself from the CSO community even more than during the state of emergency that had preceded the war. CSO engagement in decision-making further declined as a result, while a number of initiatives restricting freedom of expression were put on the agenda amid a disturbing level of hate speech, disinformation, and any criticism against government officials being perceived as or turned into insult. The high tensions and smear campaigns against CSOs alleviated somewhat after the snap parliamentary elections

held on 20 June 2021, although concerns over state security remained due to uncertainty over the further negotiations on the status of Artsakh, the presence of the Azerbaijani military in the sovereign territory of Armenia, and the intensification of Armenia's relationship with Russia, which allocated its peacekeepers in the preserved territories of Artsakh.

## Key developments in the civil society environment

In Armenia, CSOs do not face significant difficulties during their registration and operation. In 2021, the requirement that annual reports be filed by all public organisations was fully implemented for the first time.<sup>1</sup> Though the new reporting requirements raised concerns over the possible negative consequences of this increased oversight on CSOs, in general, the situation in regard to freedom of association has not significantly changed.

There is unequal treatment from the state towards CSOs as compared to businesses. Laws on registration and taxation are more favourable for the business sector, though in practice CSOs are less subject to tax inspections. The legislation allows CSOs to seek, receive and use funding from all legitimate sources. However, this possibility is not fully realisable, due to the lack of incentives to stimulate donations and entrepreneurial activities by CSOs. The targeting of and hate speech towards human rights CSOs, especially those associated with or funded by Open Society Foundations (OSF), increased in late 2020 in the context of post-war political tension. On the positive side, the annual threshold of public funding subject to mandatory audit was increased twice.

Freedom of peaceful assembly is protected by Armenian legislation, but in practice there are numerous instances where the state has failed to guarantee and protect freedom of assembly. Negative developments are linked with the restrictions on freedom of assembly during the period of martial law and further developments in the political environment. Incidents of the use of disproportionate police force were reported, while inconsistent policing depending on the topic of the protest and its participants was noted.

There are several institutional mechanisms aimed at engaging civil society and the public in the decision-making process. Institutional and practical engagement with the government by the public and CSOs is stronger as compared to with parliament, with a few successful cases of dialogue and cooperation. CSOs reported a declining level of participation over the last two years, in contrast to the increased government openness and the corresponding high expectations of CSOs reported in the early post-revolutionary period (2018).

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<sup>1</sup> The sentence was updated on September 19, 2022, for better accuracy.

A number of negative developments took place in the area of freedom of expression through late 2020 and into 2021, most of them a result of the imposition of martial law and the accompanying political tensions. Hate speech and disinformation reached worrying levels and this negatively impacted CSOs and media organisations. Several legislative amendments were initiated to address increased instances of libel and insult, but these were found to be restrictive by media organisations.

Though the right to privacy is protected by Armenian legislation, personal data leaks have taken place, and there is a lack of transparency and accountability in the investigation of these incidents, as well as on the oversight of the lawfulness of surveillance activities. Due to legislative amendments in 2021, in addition to on environmental issues, CSOs can now present public interest cases in the court in the area of protection of the rights of people with disabilities. However, in practice, a number of complicated preconditions significantly restrict the exercise of this right. In late 2020 and 2021, several discrediting campaigns against CSOs took place but the authorities did not take any significant steps to protect CSOs.

There is a longstanding procedure and practice of allocating state funding to CSOs by several ministries, mostly through grant provision mechanisms. Amendments to the procedure for state funding allocation were adopted in January 2021 to regulate the grant competitions announcement and selection process. 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 definition and incentives for volunteering remain.

Cooperation between the state and CSOs is covered by legislation on participation and the creation of various consultative bodies and joint working groups. 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. A decline was noted in the activities of these bodies, while their effectiveness in terms of CSOs' meaningful participation is questionable.

The issues related to exercising human rights in online platforms are linked with widespread disinformation and hate speech, while the authorities' efforts to address these issues are not satisfactory and mostly of a punitive nature. Use of technology for surveillance purposes is properly regulated by law and restricted for a narrow set of purposes. However, some CSOs suspect that unlawful surveillance of phone and electronic communications takes place in practice.

Since the CSO Meter 2019 report, one recommendation has been fully implemented, that is, dismissing the requirement to publish staff members' names in a foundation's annual report. Three recommendations – the dismissal of the audit requirement for public organisations that receive funding from public sources, improving the

competitiveness and transparency of state funding for CSOs, and protection from third-party allegations and hate speech – were partially addressed through relevant legislative amendments. Most of the recommendations from the CSO Meter 2019 report are restated in the current report and have increased in importance in the context of negative developments over the last year. CSO financial sustainability and participation in policy-making and implementation remain the key priority areas, along with the need to address the widespread hate speech and disinformation that targets CSOs and associated persons.

## Key priorities

The priority recommendations of the report present possible directions of improvement in the CSO Meter areas, and include the following:

- Develop and implement a comprehensive strategy/roadmap of civil society sector development through joint work with CSOs and international organisations to provide a more enabling environment for CSOs;
- Provide adequate state protection from hate speech and disinformation targeting CSOs, including through adopting anti-discrimination regulations, making public statements, and ensuring the proper investigation of attacks against CSOs and activists within a reasonable timeframe;
- Enlarge the scope of state funding to CSOs and ensure transparent, competitive and accountable funding allocation on both national and local levels, as well as improve the grant administration and monitoring skills of relevant state servants;
- 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;
- Utilise the available institutional mechanisms of participation and ensure meaningful participation through engaging CSOs in the early stages of policy development, enforcing mandatory consultations on all legislative drafts, including those produced by members of parliament, providing sufficient time for consultations, organising more frequent face-to-face consultations, including in regions, considering and incorporating CSOs' suggestions to the greatest possible extent, and demonstrating a genuine interest and commitment in seeking input from civil society and the public;
- 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 widely as possible; and

- Enlarge CSO engagement in policy implementation and monitoring stages through setting institutional mechanisms and ensuring engagement after the adoption of laws, policies, and strategies.

## II. ARMENIA – IN NUMBERS

**Population:** 2 964 100 (as of 01.01.2021)<sup>2</sup> | **GDP per capita:** \$4,267.5 (2020)<sup>3</sup> | **Number of CSOs:**<sup>4</sup> 5,532 public organisations, 1,451 foundations | **CSOs per 10,000 inhabitants:** 23.6 | **Registration fee for CSO:** 10,000 AMD (about 20 EUR)<sup>5</sup> | **Freedom in the World:** 55/100 (Partly Free)<sup>6</sup> | **World Press Freedom Index:** 28.83 (63rd out of 180 countries, 2021)<sup>7</sup>



**Country score:** 4.8  
**Legislation:** 5.2  
**Practice:** 4.3

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	4.7	5.1	4.3
Right to privacy	4.8	5.8	3.8
State duty to protect	4.6	5.3	4.0
State support	4.0	4.2	3.9
State-CSO cooperation	3.9	4.3	3.6
Digital rights	4.2	4.9	3.5

<sup>2</sup> Demographics, Government of the Republic of Armenia, <https://www.gov.am/en/demographics/>

<sup>3</sup> GDP per capita - Armenia, The World Bank, <https://data.worldbank.org/indicator/NY.GDP.PCAP.CD?locations=AM>

<sup>4</sup> Report on the activities of the State Registry of Legal Persons of the Ministry of Justice carried out in 01.01.2021-30.09.2021, 30.09.2021, [https://www.moj.am/storage/files/legal\\_acts/legal\\_acts\\_3333545299361\\_stat\\_2021-3eram.pdf](https://www.moj.am/storage/files/legal_acts/legal_acts_3333545299361_stat_2021-3eram.pdf)

<sup>5</sup> Required documents, fees and timelines of state registration, Electronic Register of the Government of the Republic of Armenia, <https://www.e-register.am/am/docs/49>

<sup>6</sup> Freedom in the World 2021, Countries and Territories, Freedom House, <https://freedomhouse.org/countries/freedom-world/scores>

<sup>7</sup> Reporters Without Borders, 2021 World Press Freedom Index, <https://rsf.org/en/ranking/2021>

# III. FINDINGS

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## 3.1 Freedom of Association

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

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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 for associating online.

In 2021, the requirement for all public organisations to produce an annual report was fully implemented for the first time.<sup>8</sup> Many organisations did not publish their reports, mostly due to a lack of awareness of the new requirements. The new reporting requirements raised concerns over the possible consequences of increased oversight of CSOs. Yet, in general, the situation in this area has not significantly changed.

The recommendations of the previous CSO Meter report in this area have not been fully addressed. However, slight improvements have been observed in terms of improved awareness-raising and support for CSOs by the state bodies responsible for registration and reporting.

### 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.<sup>9</sup> The Civil Code defines public associations and foundations as types of non-profit organisations. Public associations include public organisations, religious organisations, political parties and trade unions. For the purposes of this report, “registered CSOs” in Armenia refers to public organisations and foundations.

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 of a public organisation.<sup>10</sup> Foundations can be established by one or more

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<sup>8</sup> The sentence was updated on September 19, 2022, for better accuracy.

<sup>9</sup> Constitution of the Republic of Armenia, 05.07.1995, amended on 06.12.2015, Article 45, <https://www.arlis.am/documentview.aspx?docID=102510>.

<sup>10</sup> RA Law on Public Organisations, 16.12.2016, last amended 05.05.2021, Article 10, <https://www.arlis.am/DocumentView.aspx?docid=152972>.

individuals and/or legal persons.<sup>11</sup> 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.<sup>12</sup>

In practice, there are no obstacles for establishing or registering an organisation or joining a CSO. Civic groups can freely operate without registration. There are many civic initiatives working at the community level or around specific causes in Armenia. During and after the 2020 Nagorno-Karabakh war, a number of civic initiatives were established to provide humanitarian assistance and mobilise citizen's efforts in response to the political and social crisis in the country.

### **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 (hereafter, the State Register) is responsible for the registration of legal entities in Armenia. The registration of CSOs requires payment of a state fee of 10,000 AMD (around 20 EUR) and is conducted within a maximum of 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.<sup>13</sup> The fee for registering changes in the charter increased from 5,000 to 10,000 AMD for all legal persons, starting February 2021, justified by the volume of work carried out by the State Register.<sup>14</sup> Online registration is not yet available for CSOs.

The list of documents required for registration is defined by law and published on the website of the State Register.<sup>15</sup> Registration can be denied if the procedure of the 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 with the legal requirements.<sup>16</sup> In particular, the law requires CSOs to mention the area of their activities in their name,<sup>17</sup> and does not allow the same name as another organisation to be used, including those dissolved within the preceding year.<sup>18</sup>

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<sup>11</sup> RA Law on Foundations, 26.12.2002, last amended 19.01.2021, Article 12, <https://www.arlis.am/documentview.aspx?docid=150035>.

<sup>12</sup> RA Judicial Code, 07.02.2018, last amended 03.02.2021, Article 5, <https://www.arlis.am/DocumentView.aspx?docid=119531>.

<sup>13</sup> RA Law on Public Organisations, 16.12.2016, Article 14.

<sup>14</sup> Amendments to RA Law on State Duty, 19.01.2021, <https://www.arlis.am/DocumentView.aspx?docid=150022>.

<sup>15</sup> Required documents, fees and timelines of state registration, Electronic Register of the Government of the Republic of Armenia, <https://www.e-register.am/am/docs/49>.

<sup>16</sup> RA Law on State Registration of Legal Entities, Separate Subdivisions of Legal Entities, Institutions and Private Entrepreneurs, 03.04.2001, last amended on 26.05.2021, Article 36, <https://www.arlis.am/DocumentView.aspx?docid=154021>.

<sup>17</sup> RA Civil Code, 05.05.1998, last amended 20.05.2021, Article 58, <https://www.arlis.am/documentview.aspx?docid=74658>.

<sup>18</sup> RA Law on Public Organisations, 16.12.2016, Article 6; RA Law on Foundations, 26.12.2002, Article 5.

In practice, there are no reported cases of any CSOs not being able to register. According to the information provided by the State Register, there were 20 cases of rejection out of 1,016 applications for CSO registration. In all these cases, based on the justification of the rejection provided by the State Register, the organisations made necessary corrections and were eventually registered. CSOs mention the responsiveness and collaborative attitude of the State Register's staff, who provide support throughout the registration process before the timeline of the registration expires so that there is no cause for rejection. However, CSOs often have to adapt their name and charter to the comments and suggestions provided by the State Register staff and do not enter into dispute in order to avoid wasting time and submitting repetitive applications.<sup>19</sup>

**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).<sup>20</sup> The legal definition of 'foundation' includes an indication of pursuing "social, charitable, cultural, educational, scientific, health, environmental and (or) other charitable purposes."<sup>21</sup>

According to the law, public organisations can be a member in international and foreign non-profit organisations, engage in international relations and establish subdivisions in other countries.<sup>22</sup> The Law on Foundations sets out the right for foundations' membership of international and foreign non-governmental organisations (NGOs).<sup>23</sup>

As mentioned above, the State Register might request a CSO to adjust its charter, including its objectives, to the legal requirements, which sometimes is viewed by CSOs as a discretionary interpretation of the law. 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.**

The law sets gradual sanctions 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.

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<sup>19</sup> Focus group discussions, October 2021.

<sup>20</sup> RA Law on Public Organisations, 16.12.2016, Article 3.

<sup>21</sup> RA Law on Foundations, 26.12.2002, Article 3.

<sup>22</sup> RA Law on Public Organisations, 16.12.2016, Article 28.

<sup>23</sup> RA Law on Foundations, 26.12.2002, Article 18.

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 contradict the goals specified in their charters. The latter clause lacks specificity as to what can be considered as contradicting a CSO's goals. Penalties for violation of these provisions are applied gradually 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 98 EUR), and, lastly, a fine of 200,000 AMD (around 395 EUR).<sup>24</sup> The grounds for suspension from the register of a public organisation include a 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.<sup>25</sup> 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 for 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.<sup>26</sup> Dissolution of foundations, whether voluntary or involuntary, can take place only by a decision of the court.

According to the information from the State Revenue Committee (SRC), in 2021, the SRC sent 709<sup>27</sup> warnings to public organisations and 356 warnings to foundations that did not submit their annual report in line with the legal regulations. Further, the SRC issued twenty-one decisions on fines of 50,000 AMD (around 98 EUR) for those who did not manage to fulfil the reporting obligation within the timeline set by the warning, and ten decisions on fines of 200,000 AMD (around 395 EUR) for CSOs that did not publish reports following the first issuing of a fine. No sanction was applied for activities contradicting charter goals within the last two years. According to the data provided by the State Register, there were no cases of involuntary dissolution of CSOs during 2020-2021, and thirteen cases of dissolution based on a CSO application.

#### **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.<sup>28</sup> For foundations, officials might be involved in their governing bodies

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<sup>24</sup> RA Code on Administrative Offences, 06.12.1985, last amended 30.07.2021, Article 169.18, 169.26, 169.27, <https://www.arlis.am/documentview.aspx?docid=73129>.

<sup>25</sup> RA Law on Public Organisations, 16.12.2016, Article 32.

<sup>26</sup> RA Law on Foundations, 26.12.2002, Article 34.

<sup>27</sup> The number was updated on September 19, 2022, due to mistype

<sup>28</sup> RA Law on Public Organisations, 16.12.2016, Article 9.

in cases where the foundation is established through the decision of the government or an LSGB.<sup>29</sup>

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 State Revenue Committee (hereafter, the Department). 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.<sup>30</sup> There are no rules or guidelines on the scope and criteria for monitoring and inspection of CSOs by the Department since, according to the SRC representative, the Department does not have powers to organise inspection in place, 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.<sup>31</sup> The requirement of annual reports for all public organisations was implemented for the first time in 2021, based on legal amendments adopted in 2020.<sup>32</sup> The SRC organised several public meetings in 2021 to present the changes in reporting procedures for public organisations and foundations.<sup>33</sup> The public organisations should have published the reports by May 30. However, according to the SRC, less than half of registered public organisations provided their annual report as of 20 October 2021, presumably due to a lack of awareness of the new requirements. Though the law does not provide any exceptions, in practice no sanctions were applied in 2021 to organisations that fail to submit an annual report in cases where they did not have any financial transactions in the reporting year.

In practice, the reporting requirements are not considered to be overly burdensome, but there are fears that these requirements could lead to further interference by the state. CSOs and experts generally agree that the annual reporting form is simple. However, some of them still question the necessity of the annual report.<sup>34</sup> While some

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<sup>29</sup> RA Law on Foundations, 26.12.2002, Articles 10 and 12.

<sup>30</sup> 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](https://www.petekamutner.am/Shared/Documents/src/_as/Statutes/hr_hhpekn_2019_137_l.pdf).

<sup>31</sup> Reports of non-profit organisations, RA State Revenue Committee, [https://www.petekamutner.am/Reports\\_vh.aspx](https://www.petekamutner.am/Reports_vh.aspx).

<sup>32</sup> Amendments to the RA Law on Public Organisations, 25.03.2020, <https://www.arlis.am/DocumentView.aspx?docid=141094>.

<sup>33</sup> SRC specialists presented legislative amendments to public organisations, State Revenue Committee, <https://www.petekamutner.am/mdNews.aspx?sid=ts&nid=7800>; Meeting with representatives of foundations was held in the SRC, State Revenue Committee, <https://www.petekamutner.am/mdNews.aspx?sid=ts&nid=7790>.

<sup>34</sup> Expert interviews and focus group discussions, October 2021.

CSOs welcome the perspective of better transparency for the sector, at the same time, concerns were raised on the possibility of state intervention in the activities of CSOs. These concerns are partially based on the recent legislative drafts restricting freedom of expression (see also Area 6: Freedom of Expression), the overall post-war political environment, and the recent agreement of Commonwealth of Independent States (CIS) special services on the need to intensify joint efforts to counteract any ‘Western destabilizing influence’ made at a meeting of the heads of intelligence services of CIS countries.<sup>35</sup>

Specific recommendations in this Area are as follows:

- That the State Register publishes a user-friendly instruction guide 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 frequently asked questions and answers.
- That the Ministry of Justice provides the opportunity for CSOs to register and update their registration data through electronic means.
- That the SRC implements, in collaboration with CSOs, awareness-raising activities on the annual reporting requirement, including through visual means (video clips, animation, infographics) and that these are widely disseminated via CSO networks and mass media.

## 3.2 Equal Treatment

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

Legislation: **5 / 7**

Practice: **4.8 / 7**

The treatment of the state towards CSOs both overall and in comparison, to business entities has not changed significantly. The laws relating 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, though discriminatory practices have been observed through CSOs’ engagement in decision-making and the provision of funding by local government. The recommendation to equalise the registration provisions for public organisations and foundations have been implemented, while

<sup>35</sup> Guarding the interests of collective security and stability in the CIS, Foreign Intelligence Service of the Russian Federation, 13.10.2021, <http://svr.gov.ru/smi/2021/10/na-strazhe-interesov-kollektivnoy-bezopasnosti-i-stabilnosti-v-sng.htm>.



the threshold for the amount of public funding subject to audit in cases of public organisations was increased in line with that of foundation's total asset value.

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

The laws on registration and taxation treat CSOs less favourably in comparison to business entities. Namely, the registration process for business entities is less costly and quicker compared to that for CSOs. Specifically, 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. This difference is conditioned by the need to review the charter of CSOs in detail in case it is not based on the standard template provided by the state (in this case, the registration of public organisations also takes two days). The state fee for CSO registration is 10,000 AMD (around 20 EUR), while companies do not pay registration fees. Individual entrepreneurs pay 3,000 AMD (around 5.9 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. One of these schemes is the turnover tax that applies to companies with a turnover of less than 115 million AMD (around 226,998 EUR).<sup>36</sup> This scheme would allow CSOs 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.<sup>37</sup> The second simplified tax scheme for corporations with an annual turnover of less than 24 million AMD (around 47,377 EUR) is the microenterprise tax regime for a restricted list of activities which exempts the entity from all state taxes (excluding customs duty, excise fee and fixed income tax for employees).<sup>38</sup>

The unequal taxation field makes CSOs less competitive in comparison to businesses when applying for tenders. In addition, unlike for companies, public organisations are obliged to provide an audit report in instances where their annual income from public sources exceeds 10 million AMD (around 19,729 EUR), which adds to the costs when applying for public procurement tenders.

In practice, tax inspections are rare for CSOs as compared to business entities. Among 893 organisations included in the SRC July 2020 – July 2021 annual inspection plan, the majority are private companies with only three public organisations and thirteen

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<sup>36</sup> RA Tax Code, 04.10.2016, last amended 27.05.2021, Article 254, <https://www.arlis.am/DocumentView.aspx?DocID=155468>.

<sup>37</sup> Ibid., Article 125.

<sup>38</sup> Ibid., Articles 267 and 269.

foundations mentioned, with most of the foundations being educational establishments (i.e. universities).<sup>39</sup>

**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 have been equalised with the recent amendments related to setting 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 19,729 EUR) by the end of the reporting year,<sup>40</sup> while for public organisations the audit report is required only for the expenditure of funds received from the state or LSGBs in cases where the amount of these funds exceeds 10 million AMD (around 19,729 EUR) in the reporting year.<sup>41</sup>

In practice, CSOs have experienced that official apply a selective approach to CSOs they consult with, 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). Some of the CSO participants in the focus groups consider that the authorities tend to demonstrate a more favourable attitude towards service-providing CSOs in contrast to those working on human rights 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 through electronic means.
- That the Ministry of Finance provides at least equal tax treatment for CSOs implementing economic activities, allowing them to benefit from the turnover tax regime or the microenterprise tax regime.

## 3.3 Access to Funding

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

<sup>39</sup> Complex Tax Inspection Program for the Period July 2020 - July 2021, <https://www.petekamutner.am/Content.aspx?itn=tsTIVerificationsPlan>.

<sup>40</sup> RA Law on Foundations, 26.12.2002, Article 39.

<sup>41</sup> RA Law on Public Organisations, 16.12.2016, Article 26.

The relevant 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. The targeting of and hate speech towards human rights CSOs, especially those associated with or funded by Open Society Foundations, increased in late 2020 in the context of post-war political tension. Overall, the situation in this area has not changed. The recommendation of the CSO Meter 2019 report to remove the audit requirement where a CSO receives funding from public sources has not been implemented. On the positive side, the annual threshold for public funding subject to mandatory audit was increased twice. However, this requirement is still a burden for CSOs as the audit costs might not be provided by state grants and, in such cases, a CSO has to seek resources for carrying out the audit.

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

The relevant legal framework 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.<sup>42</sup> 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. In April 2021, legislative amendments were approved by parliament in the first reading, aimed at introducing a special law for endowment funds.<sup>43</sup> The draft amendments provide profit tax exemption for the income from endowment funds, but introduce a number of regulations on the management and oversight of the endowment funds which might be restrictive. The draft has not yet been included in the agenda of the new convocation of parliament.

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 or more (around 19,744 EUR or more) from the state or LSGBs in the reporting year.<sup>44</sup> A requirement for audit is set for foundations in cases where the value of their assets exceeds 10 million AMD (around 19,744 EUR) by the end of the reporting year.<sup>45</sup> Audit implementation is viewed as problematic by CSOs as it creates additional financial burdens, especially

<sup>42</sup> RA Law Public Organisations, 16.12.2016, Article 7, RA Law on Foundations, 26.12.2002, Article 8.

<sup>43</sup> Draft RA Law on Endowment Funds, adopted in the first reading of RA National Assembly on 19.04.2021, <http://www.parliament.am/drafts.php?sel=showdraft&DraftID=11761&Reading=0>.

<sup>44</sup> RA Law on Public Organisations, 16.12.2016, Article 26.

<sup>45</sup> RA Law on Foundations, 26.12.2002, Article 39.

when CSOs work within grant programmes that do not have specifically allocated funds for audit costs.

Non-profit organisations pay twenty per cent VAT in instances where the annual turnover of the organisation exceeds 115 million AMD (around 227,100 EUR), but only on the amount exceeding the threshold.<sup>46</sup> 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. However, there is high dependency on donor funding, since individual donations, business support, and entrepreneurial activities represent only a small part of CSOs' income. There is a growing understanding among CSOs of the need for funding diversification to secure self-sustainability. However, the practice of CSOs seeking alternative funding and developing dialogue with the business sector is negatively affected by the lack of tax benefits that could stimulate donations and social entrepreneurship initiatives (see also Area 9: State Support).

**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 authorised body qualifying the specific projects as charitable. This entails a lengthy and bureaucratic process, however. 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.

In practice, CSOs might be targeted based on funding sources. Smear campaigns take place against human rights CSOs, particularly those funded by OSF, and associated persons blamed for supporting an 'anti-Armenian' agenda. Such narratives discredit the civil society sector and negatively affect the public image of CSOs and their linkages with their target groups.<sup>47</sup> CSOs from different regions of Armenia noted that sometimes public organisations displaying actively critical positions in the community and carrying out watchdog activities are purposefully labelled as

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<sup>46</sup> RA Tax Code, 04.10.2016, Articles 59 and 63.

<sup>47</sup> See more at: 'Disinformation and Misinformation in Armenia: Confronting the Power of False Narratives,' June 2021, Freedom House, [https://freedomhouse.org/sites/default/files/2021-06/Disinformation-in-Armenia\\_En-v3.pdf](https://freedomhouse.org/sites/default/files/2021-06/Disinformation-in-Armenia_En-v3.pdf).

'sorosakan' - by local government or law enforcement bodies to make them vulnerable and less trusted by the public (see also Area 8: State Duty to Protect).<sup>48</sup>

Specific recommendations in this Area are as follows:

- 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.
- That the Ministry of Finance dismisses the mandatory audit requirement and that responsibility for state grant audit is put on the government.
- That the state should provide adequate protection from hate speech and disinformation targeting CSOs (see also Area 8: State Duty to Protect).

## 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, in numerous instances the state fails to guarantee and protect freedom of assembly. Negative developments in this area are linked to the restrictions imposed by the government during the period of martial law and further developments in the political scene. Incidents involving the use of disproportionate police force were reported, while inconsistent policing depending on the theme and participants of the protest in question was noted. The overall situation in this area has not changed since the last CSO Meter report. The recommendations of the last report have not been addressed and are still relevant in the context of the current developments in the area.

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

The law allows anyone to organise and/or participate in a peaceful assembly, which is adequately protected wherever it takes place: outdoors or indoors, online, in public and private spaces, or a combination of these. 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

<sup>48</sup> Focus group discussions, October 2021.

the fundamental rights of others.<sup>49</sup> The Law on Freedom of Assemblies 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.’<sup>50</sup> The law establishes limitations on the exercise of the right to freedom of assembly for certain positions such as judges, prosecutors, investigators, as well as people serving in the armed forces, national security, police and other military bodies.<sup>51</sup> Spontaneous assemblies are regulated with special provisions along with urgent assemblies as they 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.

In 2020, assemblies were prohibited during the state of emergency announced in the context of the Covid-19 pandemic, but the prohibition was lifted in August 2021 and assemblies were allowed with the requirements of keeping social distance and the wearing of face masks.<sup>52</sup> However, all assemblies and strikes were prohibited during the martial law announced by the government after the Nagorno-Karabakh war broke out on 27 September 2020.<sup>53</sup> Martial law was extended until March 2021, but the government lifted the provisions on the prohibition of public assemblies and strikes on 2 December 2020.<sup>54</sup> Despite the restrictions, many public assemblies were held in this period. During the war, most of these assemblies were aimed at attracting the attention of international organisations and from abroad, with practically no intervention by the police. After the ceasefire agreement, protests took place against the government and the provisions of the agreement, many of them demanding the resignation of the Prime Minister. The protest that occurred immediately on the night of the announcement of the ceasefire agreement was distinct from others as it was marked with violence, and the police failed to provide adequate protection.<sup>55</sup> Further protests were generally peaceful; however, since they violated the provisions of martial law, police representatives declared the unlawfulness of these assemblies and sometimes applied force to disperse them.<sup>56</sup>

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<sup>49</sup> RA Constitution, amended 06.12.2015, Article 44.

<sup>50</sup> RA Law on Freedom of Assembly, 14.04.2011, last amended 25.10.2017, Article 2, <https://www.arlis.am/DocumentView.aspx?DocID=117173>.

<sup>51</sup> RA Law on Freedom of Assembly, 14.04.2011, Article 8.

<sup>52</sup> RA Government Decision No. 298-N “On the State of Emergency”, 16.03.2020, amended 13.07.2020, <https://www.arlis.am/DocumentView.aspx?docid=145261>.

<sup>53</sup> RA Government Decision No. 1586-N “On Declaring Martial Law in the Republic of Armenia”, 27.09.2020, <https://www.arlis.am/DocumentView.aspx?docid=146259>.

<sup>54</sup> RA Government Decision No. 1917-N “On making amendments to RA Government Decision No. 1586-N dated September 27, 2020”, 02.12.2020, <https://www.arlis.am/DocumentView.aspx?docid=147807>.

<sup>55</sup> Angry Mob Assaults Armenian Lawmaker, Threatens RFE/RL Bureau Following Nagorno-Karabakh Truce, Radio Free Europe/Radio Liberty, 10.11.2020, <https://www.rferl.org/a/angry-mob-attacks-rfe-rl-s-armenia-office-amid-unrest-following-nagorno-karabakh-deal/30939895.html>.

<sup>56</sup> Monitoring of Freedom of Peaceful Assemblies, October-December 2020, Helsinki Committee of Armenia, Yerevan 2021, [http://armhels.com/wp-content/uploads/2021/06/Monitoring-of-Freedom-of-Assemblies\\_2020\\_ENG.pdf](http://armhels.com/wp-content/uploads/2021/06/Monitoring-of-Freedom-of-Assemblies_2020_ENG.pdf).

In 2021, a number of assemblies were held by both the opposition groups and the party in power, which continued through the election campaigns ahead of the snap elections held on 20 June 2021. There were a few instances of assembly dispersals in cases where roads had been blocked and warnings had not been obeyed. However, most often police did not apply force but only issued warnings. During the period preceding the snap parliamentary elections, instances of the misuse of administrative resources to force participation in assemblies (or the opposite) by various political forces were reported.<sup>57</sup> Among the few assemblies on non-political themes held in 2021, the one that stood out from a civil society perspective was the protest against construction in the green zone in the Fizgorodok district, in Yerevan.<sup>58</sup>

### **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 law. For public assemblies taking place outdoors, the law requires that written notification be sent to the head of the community, where 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.<sup>59</sup> 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 ban the assembly, the LSGB is obliged to organise hearings and notify the assembly organisers. The restrictions can be set in case the time, place or method of the intended assembly may directly and disproportionately affect the fundamental rights or interests of other persons. In this case, 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.<sup>60</sup> The community head's decision on holding assemblies can be appealed in the

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<sup>57</sup> Final Report of the Observation Mission of Snap Elections of the RA National Assembly held on June 20, 2021, "Akanates" Observation Initiative, <https://transparency.am/hy/news/view/3363>.

<sup>58</sup> "The construction of a high-rise building in "Fizgorodok" in Yerevan is a cause of protest and uproar: there are detainees", Radio Free Liberty, 21.09.2021, <https://www.azatutyun.am/a/31421694.html>; We Condemn Seizure of Area Adjacent to Physics Institute and Exercise of Violent Force by Police, Ecolur, 23.08.2021, <https://www.ecolur.org/en/news/cities/13415/>.

<sup>59</sup> RA Law on Freedom of Assembly, 14.04.2011, Articles 9-13.

<sup>60</sup> RA Law on Freedom of Assembly, 14.04.2011, Articles 15-20.

administrative court at least seven days before the scheduled day of the assembly. The appeal should be reviewed within two calendar days.<sup>61</sup>

In practice, most assemblies (apart from the pre-election meetings) are held without notification and organised as urgent or spontaneous assemblies. At the same time, in most of these cases, the number of assembly participants did not exceed one hundred people.<sup>62</sup>

### **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.<sup>63</sup> 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.<sup>64</sup> 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.

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; these are planned to be developed within the framework of the National Strategy for Human Rights Protection.<sup>65</sup> In cases where the notification requirement has not been fulfilled, the police should announce by loudspeaker that the assembly is unlawful and that the participants may be held liable. At the same time, the law obliges the police to facilitate an assembly when it is peaceful. 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

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<sup>61</sup> RA Administrative Procedure Code, last amended 30.07.2021, Article 204, <https://www.arlis.am/DocumentView.aspx?DocID=155146>.

<sup>62</sup> Monitoring of Freedom of Peaceful Assemblies, October-December 2020, Helsinki Committee of Armenia, Yerevan 2021.

<sup>63</sup> RA Law on Freedom of Assembly, 14.04.2011, Article 31.

<sup>64</sup> RA Law on Freedom of Assembly, 14.04.2011, Article 32.

<sup>65</sup> Action Plan for 2020-2022 deriving from the National Strategy for Human Rights Protection of the Republic of Armenia, [https://www.moj.am/storage/uploads/02Appendix\\_2.pdf](https://www.moj.am/storage/uploads/02Appendix_2.pdf).



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 authorized to take immediate measures without prior notification.<sup>66</sup>

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.<sup>67</sup> The law also obliges police officers to wear prescribed uniform with visible signs when carrying out duties related to the maintenance of public order.<sup>68</sup>

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 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 head of police.<sup>69</sup>

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, including the use of force towards and the detention of minors. These cases include during the protests organised by the inhabitants of a city district widely known as 'Fizgorodok', when people protested against allegedly unlawful construction in the green part of the district.<sup>70</sup> There are also documented cases of inappropriate treatment that violates

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<sup>66</sup> RA Law on Freedom of Assembly, 14.04.2011, Articles 32 and 33.

<sup>67</sup> RA Law on Police, 16.04.2001, last amended 18.06.2020, Article 31, <https://www.arlis.am/DocumentView.aspx?DocID=146074>.

<sup>68</sup> RA Law on Police, 16.04.2001, Article 12.

<sup>69</sup> RA Law on Police, 16.04.2001, Article 22.

<sup>70</sup> "The construction of a high-rise building in 'Fizgorodok' in Yerevan is a cause of protest and uproar: there are detainees", Radio Free Liberty, 21.09.2021, <https://www.azatutyun.am/a/31421694.html>; Citizens Holding Protest Demonstration against Construction in Fizgorodok Being Detained, Ecolur, 14.09.2021, <https://www.ecolur.org/en/news/sos/13478/>.

the human right to dignity and show a failure to follow the prescribed legal procedure for detention.<sup>71</sup>

The experts note that there is a lack of investigations and sanctions applied against police officers who have acted unlawfully during assemblies. The proceedings against police officers initiated for the violations that occurred during the 2015 and 2016 protests are still in progress and no serious charges have yet been applied relating to the incidences of serious violence on the part of police officers against assembly participants and journalists.

#### 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.
- 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**

There are a number of institutional mechanisms aimed at engaging civil society and the public in the decision-making process. However, in practice, not all of them are fully functional, such as consultative bodies, while the electronic platforms for public consultations, public hearings, and the disclosure of information by state bodies are limited in their scope and effectiveness. Institutional and practical engagement with the government is stronger compared to with parliament, with a few successful cases of dialogue and cooperation having been observed. However, CSOs report a regression in participation over the last two years in contrast to the increased government openness and high expectations of CSOs reported during the early post-revolutionary period (2018). A lack of proactive efforts and interest in CSO expertise from the government has been noted, and the impact of CSO input, where it does occur, is not sufficient. Positive trends regarding transparency and participation have been noticed in some communities, but these are conditioned by the personal attitudes of community leaders and the consistency of the advocacy of local CSOs. Generally, however, the level of local participation is insufficient. There

<sup>71</sup> Annual Report on the Human Rights Situation and Activities of the Human Rights Defender of the Republic of Armenia in 2020, Human Rights Defender of the Republic of Armenia, <https://ombuds.am/images/files/883f55af65e3c33553139031c7ac0ce6.pdf>.

is no progress in this area with regard to the recommendations of CSO Meter 2019 report.

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

Everyone has a right to participate in decision-making in Armenia, and the legal framework provides a number of opportunities for the participation of citizens and CSOs. However, the accountability mechanisms for non-compliance with the participation requirements are weak. According to the Constitution, citizens can present petitions and legislative initiatives to decision-makers. The Law on Normative Legal Acts includes a provision on mandatory public consultation on new legislative acts. 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.<sup>72</sup> These provisions, however, do not extend to draft legislation initiated by parliament or presented as a result of citizen initiatives.<sup>73</sup> The lack of public consultation requirement for parliament-initiated drafts is a major gap in the legislative framework enabling participation. In addition, further restrictions were introduced by amendments to the law adopted in April 2021, which included a provision stating that legislation related to the state of emergency or martial law is not subject to mandatory public discussion.<sup>74</sup> In practice, a number of laws and government decisions were adopted in 2020-2021 without any public consultation.

The parliamentary rules of procedure include a provision on conducting public hearings on a discretionary basis.<sup>75</sup> Two parliamentary hearings on the topics of science development and local self-government reforms were conducted up to October 2021, while in 2019-2020 around ten hearings were organised in each year.<sup>76</sup> Information on upcoming hearings is published on the parliamentary website and the hearings are broadcast live. In addition, a number of working discussions with CSOs and experts are organised by parliamentary committees, mostly on an invitation basis. One successful case of CSOs' engagement with parliament was collaboration with the parliamentary working group on electoral reforms, where relevant CSO experts were involved in an advisory group and succeeded in incorporating some of their recommendations. In addition, parliamentary hearings and open discussions were also organised by this working group, extending the participation opportunity

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<sup>72</sup> 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>.

<sup>73</sup> Ibid., Article 1.

<sup>74</sup> RA Law on Amendments to the Law on Normative Legal Acts, 19.04.2021, <https://www.arlis.am/DocumentView.aspx?docid=152130>.

<sup>75</sup> RA Constitutional Law on the Charter of National Assembly, 16.12.2016, last amended 24.03.2021, Article 125, <https://www.arlis.am/DocumentView.aspx?DocID=151845>.

<sup>76</sup> Based on the review of the "News" section of the parliament website, <http://parliament.am/news.php?lang=arm>.

beyond CSOs involved in the advisory group.<sup>77</sup> CSOs that participated in the research noticed that though there is fragmentary collaboration with the members of parliament, the issues raised by CSOs are generally not taken into consideration and provided with an adequate response, while there is an overall lack of proactive efforts towards engagement with CSOs. On the contrary, a number of controversial legal drafts and decisions were made by parliament recently without any possibility for public participation or input, including the initiatives to amend Civil Code and the Law on Mass Media aimed at addressing defamation and insult,<sup>78</sup> amendments to the Law on State of Emergency introducing the possibility to collect information on the location and calls of the users of electronic communication services,<sup>79</sup> amendments to the Law on Remuneration of Persons Holding Public Positions and Public Service Positions introducing a fivefold increase on the monthly allocations for the expenses of deputies' activities<sup>80</sup> and others. In addition, even in cases when the government-initiated draft was properly consulted on through the e-draft platform (Unified Website for the Publication of Draft Legal Acts) and public discussions, with CSOs being able to advocate and reach consensus on specific provisions, parliament might still change the provisions at the last moment before adoption. The most recent example of this practice can be seen through the amendments to the Criminal Procedure Code adopted by parliament in October 2021. Though the first reading of the amendments reserved the investigation of torture cases to the Special Investigative Service, which reflected the provisions of the National Anticorruption Strategy and was discussed via public consultations, in the second reading, the relevant article was changed, assigning the investigation of torture cases to the National Security Service, while the Special Investigative Service would cease its activities as a responsible body for investigation of criminal cases committed by officials. Such a radical change was neither consulted on, nor communicated in order to provide an opportunity for CSOs to voice their opinions.<sup>81</sup>

On 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

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<sup>77</sup> Round table summary: Armenia – Does the early election endanger the electoral reform?, European Platform for Democratic Elections, 13.04.2021, <https://www.epde.org/en/news/details/round-table-armenia-does-the-early-election-endanger-the-electoral-reform.html>.

<sup>78</sup> For more details, 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>.

<sup>79</sup> For more details, see: Efficiency, Flaws and Potential Dangers of Phone Tracking, Astghik Karapetyan, EVN Report, <https://www.evnreport.com/covid-19/efficiency-flaws-and-potential-dangers-of-phone-tracking>.

<sup>80</sup> Amendment to Law on Remuneration of Persons Holding Public Positions and Public Service Positions, 15.07.2021, National Assembly of the Republic of Armenia, [http://www.parliament.am/news.php?cat\\_id=2&NewsID=14880&year=2021&month=07&day=15&lang=eng](http://www.parliament.am/news.php?cat_id=2&NewsID=14880&year=2021&month=07&day=15&lang=eng); Message to the RA National Assembly on the legislative change of the increase of the deputies' expenses (Statement by CSOs and citizens), Transparency International Armenia, 19.07.2021, <https://www.transparency.am/hy/statements/view/403>.

<sup>81</sup> Armenia is making significant regress in the fight against torture (Statement by CSOs), Transparency International Armenia, 22.10.2021, <https://transparency.am/hy/news/view/3379>.

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.<sup>82</sup> In practice, the participatory practices are different from community to community, often dependent on the willingness and attitude of the community head, as well as the participatory traditions formed through the efforts of local CSOs and active groups. However, in general, the level of participation in community decision-making is rather low.<sup>83</sup>

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.<sup>84</sup> There are no legal provisions on strategic lawsuits against public participation (SLAPPs).

#### **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. However, there is a lack of laws enforcing participation in policy implementation and monitoring. The institutional framework for participation in developing, implementing, and monitoring public policies is provided through the establishment of consultative bodies. 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.<sup>85</sup> The councils are set up through an announcement and are open to all citizens and organisations. In each ministry, the decision on the final composition of the public council is made by the minister, who chairs the council. In practice, a considerable regression has been reported in the activities of the consultative bodies in recent years, most notably in 2020 due to the emergency situation. Though some of the ministries reconvened public council activities in 2021, meetings of these public councils took place in only five out of twelve ministries up to October 2021.<sup>86</sup>

According to government 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

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<sup>82</sup> RA Law on Local Self-Government, 07.05.2002, revised 16.12.2016, last amended 24.09.2021, <https://www.arlis.am/documentview.aspx?docid=156523>.

<sup>83</sup> Public Participation Platforms and Opportunities in Armenia: Mapping Study, Transparency International Anticorruption Center, Yerevan 2021, <https://transparency.am/hy/publications/view/409>.

<sup>84</sup> 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>.

<sup>85</sup> 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>.

<sup>86</sup> Source: official websites of 12 ministries, listed in the website of the Government of the Republic of Armenia, <https://www.gov.am/en/structure/>.

Publication of Draft Legal Acts.<sup>87</sup> This platform, operating at [www.e-draft.am](http://www.e-draft.am), was established in 2017 and is administered by the Ministry of Justice. The legislative drafts are published there along with a short description, justification, and the provided suggestions along with their feedback from the law-making body. Over 2,000 drafts have been posted for discussion since the platform was established, with the number of registered users reaching 65,000 by October 2021.<sup>88</sup> The platform allows CSOs and citizens to provide suggestions on all the draft legislation produced by the government bodies, which are often responded to and sometimes taken into account. However, CSOs mention a number of issues regarding the platform's functionality and impact, as the revised versions of drafts are often not published, feedback to proposals is not always provided, and, most importantly, CSOs' suggestions related to conceptual, rather than technical, issues are often not incorporated. In addition to the e-draft platform, government procedure mentions public hearings and surveys as optional tools for implementing public consultations. These face-to-face discussions are mentioned by CSOs as an effective format for dialogue as they stimulate open discussion and provide an opportunity to clarify issues in person. However, in the case of invitation-based discussions, there is a lack of transparency on how the invited CSOs are selected, which can be interpreted as a discriminatory and selective approach. One successful example of the incorporation of CSO suggestions through online and offline channels is seen in the draft amendments to the Labour Code discussed recently by the Ministry of Labour and Social Affairs.<sup>89</sup> In general, CSOs and experts note that the scope and impact of participation often depends on the attitudes of a specific official, the theme discussed, as well as a CSO's advocacy and mobilisation capacities.<sup>90</sup>

Consultations in the early stages of draft acts are done based on the discretion of the policy-making bodies, usually through public councils or meetings with CSOs having expertise in the area. Still, CSOs report a decline in the genuine interest by state institutions in seeking CSOs' input and engagement, with some exceptions' dependent on personal attitude of individual officials. The practice of engaging CSOs in the stages of implementation, monitoring and evaluation of state policies and programmes remains to at a low level, as there are no institutional mechanisms of engagement apart from consultative bodies. 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.

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<sup>87</sup> The Procedure of Organising and Conducting Public Consultations, Appendix to the RA Government Decision No. 1146-N dated 10.10.2018.

<sup>88</sup> Statistics, Unified Website for Publication of Legal Acts' Drafts, <https://www.e-draft.am/en/statistics>.

<sup>89</sup> Public discussion on the draft law "On Making Amendments to the RA Labour Code", Ministry of Labour and Social Affairs, 12.10.2021, <https://www.mlsa.am/?p=30766>.

<sup>90</sup> Expert interviews and focus group discussions, October 2021.

### 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.<sup>91</sup> According to the Law on Freedom of Information, the responses to written information requests are submitted to the applicant within five days after receipt, but in case additional effort is required for providing the information, this timeline extends to 30 days.<sup>92</sup> Restrictions on information provision are related to national security, professional confidentiality, private information, preliminary investigation data, and copyrighted data.<sup>93</sup> The fee charged by public administration and LSGBs, public institutions and organisations includes only the technical costs of providing such information, with no charges associated for printing or copying information that is ten pages or less, providing information by e-mail, or responding to written inquiries.<sup>94</sup> The government's Unified Platform for Electronic Inquiries at [www.e-request.am](http://www.e-request.am)<sup>95</sup> serves for submitting and tracking online applications, and requests or complaints to state authorities. The state fee for obtaining complete information about any organisation from the State Register is 3,000 AMD (around 5.88 EUR).<sup>96</sup> Mass media companies were exempted from this fee in 2020. However, it is burdensome for CSOs engaged in watchdog and monitoring activities.

In practice, according to CSOs, responses to inquiries are not always provided on time and are sometimes incomplete or evasive. There are cases of no response being provided at all, mostly in the case of local level authorities.<sup>97</sup> There are no official statistics available on inquiries 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 law also envisages the disclosure of information by the government. State agencies, regional administrations, and communities of 3,000 or more inhabitants are required to publish information specified by law on their website annually.<sup>98</sup> According to the results of a monitoring study, this information required by law is

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<sup>91</sup> Constitution of the Republic of Armenia, 05.07.1995, amended on 06.12.2015, Article 51.

<sup>92</sup> RA Law on Freedom of Information, 23.09.2003, Article 9, <https://www.arlis.am/documentview.aspx?docID=1372>.

<sup>93</sup> RA Law on Freedom of Information, 23.09.2003, Article 8.

<sup>94</sup> RA Law on Freedom of Information, 23.09.2003, Article 10.

<sup>95</sup> 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>.

<sup>96</sup> RA Law on State Duty, 27.12.1997, last amended 15.07.2021, Article 20, <https://www.arlis.am/documentview.aspx?docid=156928>.

<sup>97</sup> Expert interviews and focus group discussions, October 2021; see also: An Odyssey of an Inquiry, Freedom of Information Center of Armenia, 20.10.2021, <http://www.foi.am/hy/news/item/2099/>.

<sup>98</sup> RA Law on Freedom of Information, 23.09.2003, Article 7.

often not published completely or in a timely manner and does not comply with the open data and accessibility principles.<sup>99</sup>

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

The legal framework does not affect the ability of CSOs to engage in public policy activities. According to the law, public organisations cannot pursue objectives that are reserved for other organisational types, such as political parties.<sup>100</sup> The goals of political parties are defined as “participation in referendums, elections of national and local government, and other forms of participation in public and state political life with the purpose of contributing to the formation and expression of the people's political will.”<sup>101</sup> 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 alternative to the interests of political parties. However, there is a general widespread problem of hate speech and stigmatisation on the basis of individuals’ political views (see also Area 6: Freedom of Expression and Area 8: State Duty to Protect).

#### **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, enforcing mandatory consultations on all legislative drafts, including those produced by members of parliament, providing sufficient time for consultations, organising more frequent face-to-face consultations, including in regions, considering and incorporating CSO suggestions to the maximum possible extent, and demonstrating a genuine interest and commitment to seeking input from civil society and the public.
- That the government and 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. The government should publish joint statistics on inquiries and complaints and establish effective and timely

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<sup>99</sup> Shushan Doydoyan, Evaluation of Official Websites of Government Bodies, Yerevan 2020, [http://www.tol.am/u\\_files/file/TA%20patasxanatuner/Web\\_site\\_Audit\\_Report.pdf](http://www.tol.am/u_files/file/TA%20patasxanatuner/Web_site_Audit_Report.pdf).

<sup>100</sup> RA Law on Public Organisations, 16.12.2016, Article 3.

<sup>101</sup> RA Constitutional Law on Political Parties, 16.12.2016, Article 2, <https://www.arlis.am/DocumentView.aspx?DocID=153100>.



processes.

- That the government enlarge CSO engagement in policy implementation and monitoring stages through setting institutional mechanisms and ensuring engagement after the adoption of laws, policies, and strategies.

## 3.6 Freedom of Expression

Overall score per area: **4.7 / 7**

Legislation: **5.1 / 7**

Practice: **4.3 / 7**

A number of negative developments took place in the area of freedom of expression last year, most of them conditioned by the state of martial law and the accompanying political tensions. Hate speech and disinformation have reached worrying levels and this has negatively impacted CSOs and media organisations. Several legislative amendments were initiated to address increased instances of libel and insult, but these have been found to be restrictive by media organisations. CSOs are concerned that these measures are aimed at primarily protecting officials and not civic activists. The recommendation of the CSO Meter 2019 report in regard to regulating hate speech was partly implemented through amendments that criminalised public calls to violence. However, these amendments did not bring about any tangible changes in addressing hate speech targeting CSOs and activists.

### **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 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.<sup>102</sup>

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.<sup>103</sup> Media outlets are issued and distributed without prior or current state registration, licensing, declaration or notice to any state body.<sup>104</sup> The requirement for licensing of mass media refers exclusively to radio and television companies. The Law on Audiovisual Media, which was adopted in 2020 and replaced the Law on Television and Radio, regulates the activities of broadcasting media, including their authorship, licensing, rights, and responsibilities, etc.<sup>105</sup>

In 2020, restrictions were introduced for the media publications due to the state of emergency announced because of the Covid-19 pandemic and then by the state of martial law. According to the decision on martial law, publication, and dissemination of information on military operations could only be done through quoting the official government information without editing it. Further, restrictions on freedom of expression were extended to prohibit statements criticizing or refuting the actions of the government, LSGBs, or officials done in the framework of the martial law and ensuring state security, as well as questioning the effectiveness of those actions or depreciating them in any way.<sup>106</sup> These restrictions were limited in duration and justified by state security. However, they lacked specificity so that disproportional interference with the human rights and the work of journalists could take place. Based on these concerns, the Human Rights Defender of Armenia filed an application to the Constitutional Court concerning the constitutionality of these restricting provisions.<sup>107</sup> On 2 December 2020, the government lifted the restrictions on the publications and reports, though martial law remained in force.<sup>108</sup> A vast number of

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<sup>102</sup> Constitution of the Republic of Armenia, 05.07.1995, amended on 06.12.2015, Article 42.

<sup>103</sup> RA Law on Mass Media, 13.12.2003, last amended 06.03.2020, Article 7, <https://www.arlis.am/DocumentView.aspx?DocID=140685>.

<sup>104</sup> Ibid., Article 4.

<sup>105</sup> RA Law on Audiovisual Media, 16.07.2020, last amended 29.12.2020, <https://www.arlis.am/DocumentView.aspx?DocID=149258>.

<sup>106</sup> RA Government Decision No. 1586-N "On Declaring Martial Law in the Republic of Armenia", 27.09.2020, amended on 08.10.2020, <https://www.arlis.am/DocumentView.aspx?docid=146652>.

<sup>107</sup> The Ombudsman filed an application to the Constitutional Court about the constitutionality of provisions restricting the freedom of expression and media and liability thereof on the grounds of martial law, 03.11.2021, Human Rights Defender of the Republic of Armenia, [https://www.ombuds.am/en\\_us/site/ViewNews/1358](https://www.ombuds.am/en_us/site/ViewNews/1358).

<sup>108</sup> RA Government Decision No. 1917-N "On Amendments to the Decision No. 1586-N of the Government of the Republic of Armenia dated September 27, 2020", 02.12.2020, <https://www.arlis.am/DocumentView.aspx?docid=147807>.

publications were required to be removed, while thirteen media outlets were fined in the period during which these provisions were effective.<sup>109</sup>

In August 2021, restrictions were enacted by parliament to limit the movement of journalists in the parliament building itself.<sup>110</sup> Further, during incidents of fighting between parliament members, journalists were removed from the room reserved for the press. These incidents and limitations were criticized by the media as unlawful restrictions on their work.<sup>111</sup>

In the context of post-war tension and further political developments, disinformation, hate speech, defamation and insults were widespread in both traditional and online media, and particularly on social media platforms such as Facebook and YouTube. CSOs were also targeted by hate speech and disinformation (see also Area 8: State Duty to Protect). The rhetoric of the election campaign which featured obscene language, hate speech and insults was reflected in media publications, and this led to a sharp increase in lawsuits against media. Attacks on media workers were reported during pre-election rallies, where the presence of media considered as serving specific political interests escalated into conflicts.<sup>112</sup>

The government and parliament initiated a number of legislative initiatives to address increased levels of libel and insult. However, these initiatives were assessed by the media community as disproportionate and restricting freedom of expression. In addition, the political polarisation and increased hate speech stimulated self-censorship by CSOs on social media, as any support or criticism in reference to any government initiative could lead to in-person verbal attacks and labelling. Incidents of harassment and pressure by employers and/or local government representatives for opinions publicised on social media have been reported by CSOs.

A notable case of negative repercussions for freedom of expression in 2021 was the criminal charges against a CSO leader working in the area of protecting national minority rights. The CSO representative was accused of 'actions aimed at the incitement of national, racial or religious hatred' based on an interview in which he referred to the problems faced by the Yezidi minority in Armenia. A number of statements and petitions were published in support of the activist, including by the

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<sup>109</sup> Annual Report on Situation with Freedom of Expression and Violations of Journalists and Media Rights in Armenia, Committee to Protect Freedom of Expression 2020, 26.01.2021, <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-2020/>.

<sup>110</sup> Armenian Journalists Face Major Restrictions in Parliament, Radio Free Liberty, 02.08.2021, <https://www.azatutyun.am/a/31390086.html>.

<sup>111</sup> Statement of media organisations, Committee to Protect Freedom of Expression, 11.08.2021, <https://khosq.am/en/2021/08/11/statement-87/>.

<sup>112</sup> Quarterly report of CPFE on Situation with Freedom of Expression and Violations of Rights of Journalists and Media in Armenia (April-June, 2021), Committee to Protect Freedom of Expression, 23.07.2021, <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-2021/>.

Human Rights Defender of Armenia and Human Rights Watch. The charges have not yet been dropped, however.<sup>113</sup>

## **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.

According to the Law on Mass Media, 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.<sup>114</sup> The confidentiality of whistle-blowers' identities is also protected by the Law on Whistleblowing.<sup>115</sup> In December 2021, parliament adopted amendments to the Law on Mass Media and relevant legislation,<sup>116</sup> which state that the mass media will not be exempted from liability in cases of citing information from 'non-identified' sources.<sup>117</sup> The adopted amendments are a significant improvement to the initial draft prohibiting any reference to anonymous sources.<sup>118</sup> The experts find that this move primarily addresses information taken from Telegram accounts.<sup>119</sup>

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 1 million AMD (around 1,964 EUR) for insult and 2 million AMD (around 3,923 EUR) for defamation. The Civil Code mentions that the court has to take into account the property of the defendant.<sup>120</sup> In March 2021, parliament adopted amendments to the Civil Code stipulating a three-fold increase to the maximum compensation. The amendments were not signed by the president, who sent them to the Constitutional Court for review amid criticism by media organisations and experts, as well as international human rights organisations,

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<sup>113</sup> See more information here: Armenia: Malicious Prosecution of Activist, Human Rights Watch, 16.06.2021, <https://www.hrw.org/news/2021/06/16/armenia-malicious-prosecution-activist>; HCA Vanadzor has undertaken the protection of human rights activist Sashik Sultanyan's rights, Helsinki Citizens' Assembly-Vanadzor, 09.07.2021, <https://hcav.am/en/sashik-sultanyan-9-07-21/>; Armenia: Authorities Must Drop Charges against Yezidi Human Rights Defender and Protect Freedom of Speech, Freedom House, 03.08.2021, <https://freedomhouse.org/Article/armenia-authorities-must-drop-charges-against-yezidi-human-rights-defender-and-protect>; The Human Rights Defender of Armenia shares the concerns of human rights defenders and Freedom House organization about Mr. Sashik Sultanyan's case, Human Rights Defender of the Republic of Armenia, 06.08.2021, [https://ombuds.am/en\\_us/site/ViewNews/1847](https://ombuds.am/en_us/site/ViewNews/1847).

<sup>114</sup> RA Law on Mass Media, 13.12.2003, Article 5.

<sup>115</sup> RA Law on Whistleblowing, 09.06.2017, last amended 12.07.2018, Article 11, <https://www.arlis.am/DocumentView.aspx?DocID=123969>.

<sup>116</sup> Draft history, RA National Assembly, [http://parliament.am/draft\\_history.php?id=12812](http://parliament.am/draft_history.php?id=12812).

<sup>117</sup> 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.

<sup>118</sup> For more details, 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>.

<sup>119</sup> The law will allow the use of any source of information, in this case the media outlet just takes the responsibility. Ashot Melikyan, ArmDaily, 10.12.2021, <https://www.armdaily.am/?p=161820&l=am>.

<sup>120</sup> RA Civil Code, 05.05.1998, last amended 20.05.2021, Article 1087.1.

that these sanctions were disproportionate. However, in October 2021, the Constitutional Court ruled that the amendments are in line with the Constitution,<sup>121</sup> and the amendments entered into force.<sup>122</sup>

In July 2021, amendments to the Criminal Code and Criminal Procedure Code were adopted criminalising swearing.<sup>123</sup> The sanctions for this action included a fine from 100,000 to 500,000 AMD (196-983 EUR), with more fines and up to two months detention in case of aggravating circumstances. Another initiative by the government aimed to protect public servants from defamation and insult (with charges including up to two years imprisonment) was published for discussion in February 2021. It was criticised by media organisations.<sup>124</sup>

Hate speech is not defined by Armenian legislation. In 2020, amendments to the Criminal Code criminalized public calls to and public justification or preaching violence, with sanctions varying from a fine up to three-years' imprisonment in cases where the misconduct was committed by a group of persons with prior agreement or by an official.<sup>125</sup>

CSOs and experts mentioned the urgent necessity of tackling the issues of hate speech, disinformation, and fake news.<sup>126</sup> However, they noted that the measures taken should not be discretionary as the charges initiated for libel and insult seem to be primarily aimed at protecting officials. In addition, experts mentioned that instead of restrictions and punishment, these measures should rather focus on education, addressing available informational gaps, and using tools and practices that have been approved and recognised internationally.

### Specific recommendations in this Area are as follows:

- That parliament stops making fragmentary amendments to media regulations that contradict international standards and instead applies a more conceptual approach to media legislation reforms.
- That the state develops mechanisms to address hate speech and disinformation with respect to international standards, particularly through focusing on the promotion of media literacy and ethical standards and

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<sup>121</sup> For more information, see: Armenia: Concerns about freedom of expression after Constitutional Court decision, CSO Meter, <https://csometer.info/updates/armenia-concerns-about-freedom-expression-after-constitutional-court-decision>.

<sup>122</sup> RA Law "On amendments to the Civil Code of the Republic of Armenia", 24.0.2021, <https://www.arlis.am/DocumentView.aspx?docid=156779>.

<sup>123</sup> RA Criminal Code, 18.04.2003, last amended 30.07.2021, Article 137.1, <https://www.arlis.am/DocumentView.aspx?DocID=155365>.

<sup>124</sup> For more information, see: Armenia: Freedom of speech continues to be under pressure, CSO Meter, <https://csometer.info/updates/armenia-freedom-speech-continues-be-under-pressure>.

<sup>125</sup> RA Criminal Code, 18.04.2003, Article 226.2.

<sup>126</sup> Expert interviews and focus-group discussions, October 2021.



## 3.7 Right to Privacy

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

Legislation: **5.8 / 7**

Practice: **3.8 / 7**

The right to privacy is protected by Armenian legislation. In practice, personal data leaks have taken place, and there is a lack of transparency and accountability in the investigation of these incidents, as well as on the oversight of the lawfulness of surveillance activities. In 2021, the situation has not changed since the previous reporting period. The recommendation of the CSO Meter 2019 report on dismissing the requirement to publish foundation staff members' names in annual reports was implemented through amendments to the Law on Foundations.

### 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.<sup>127</sup> The Law on the Protection of Personal Data regulates the procedure and conditions for the handling of personal data and exercising state oversight over 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.<sup>128</sup> In 2015, the Personal Data Protection Agency was established under the Ministry of Justice 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 relevant rights. The Agency provides consultations, initiates administrative proceedings on the basis of citizen 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.<sup>129</sup>

Although the Law on Personal Data Protection contains enabling provisions in line with international law, its law enforcement and remedy mechanisms are weak, thus

<sup>127</sup> RA Constitution, 05.07.1995, amended on 06.12.2015, Article 31.

<sup>128</sup> 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>.

<sup>129</sup> See the 2020 Activity Report of the Agency for Protection of Personal Data, Ministry of Justice, <https://www.moj.am/page/610>.

in practice these provisions are hardly met. The representatives of government agencies and state institutions lack relevant knowledge and skills in handling personal data. Coupled with this, there is a significant lack of recognition of the existing gaps and knowledge in relevant international standards among CSOs, so CSO advocacy and/or initiatives to protect their own rights in this area is almost non-existent.<sup>130</sup>

The Criminal Code sets out liability for using or disseminating anyone's personal or family-related private information without their consent.<sup>131</sup> 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 98-980 EUR), in cases where the violation is not subject to criminal liability. In practice, according to the area experts, none of these sanctions has been ever applied for privacy violations.

Based on the amendments to the Law on State of Emergency, the location and calls of the users of electronic communication services were collected in order to identify the contact circles of potentially infected people during the state of emergency related to the Covid-19 pandemic which was in effect from March to September 2020. Following the end of the state of emergency, the relevant data drives were destroyed in the presence of representatives of state structures and telecommunication companies.<sup>132</sup> However, there was no report on the data usage, as well as on the measures applied to monitor the usage and prevent any data leaks.

There were reported leaks of data related to citizens infected with Covid-19, as well as passport data and other personal information of citizens, mostly carried out by Azerbaijani hackers.<sup>133</sup> No information on the investigation of these incidents is available publicly, while citizens were not at any stage notified about the leakage of their data.

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

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.<sup>134</sup>

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<sup>130</sup> CSO Meter Advisory Board meeting, December 2021.

<sup>131</sup> RA Criminal Code, 18.04.2003, Article 144.

<sup>132</sup> Protocol on the destruction of all data processed by software, EKENG CJSC, Government of the Republic of Armenia, 25.09.2020, [https://www.gov.am/u\\_files/file/Haytararutyunner/Ardzanagrutyun.pdf](https://www.gov.am/u_files/file/Haytararutyunner/Ardzanagrutyun.pdf).

<sup>133</sup> Artur Papyan, The Cyber Battlefield is Just as Important: Armenia's Cybersecurity, EVN Report, 27.01.2021, <https://www.evnreport.com/magazine-issues/the-cyber-battlefield-is-just-as-important-armenia-s-cybersecurity>.

<sup>134</sup> RA Law on Foundations, 26.12.2002, Article 39.



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 National Security Service (NSS) can carry out surveillance within a 48 hour period before a court decision is secured.<sup>135</sup>

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 authorization. There were no reports of cases of law enforcement representatives breaking into CSOs' offices or accessing CSOs' documents without due judicial authorizations.

### Specific recommendations in this Area are as follows:

- That the government implements necessary cybersecurity measures and more careful handling of data to protect the right to privacy and exclude the possibility of any data leaks.
- That law enforcement bodies should conduct timely and effective investigations and apply relevant sanctions for data leaks, while also informing the public about the investigation results in a transparent manner.
- That the Personal Data Protection Agency implements capacity-building activities on personal data protection for civil servants, CSOs and other stakeholders and, in cooperation with CSOs and area experts, develops the necessary procedures to raise public awareness on personal data issues.

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<sup>135</sup> RA Law on Operational Intelligence Activity, 22.10.2007, last amended 03.03.2021, Article 32 and 34, <https://www.arlis.am/documentView.aspx?docid=152666>.

## 3.8 State Duty to Protect

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

Legislation: **5.3 / 7**

Practice: **4 / 7**

CSOs are provided with legal mechanisms to protect their rights. Due to legislative amendments, in addition to on environmental issues, CSOs can now present public interest cases in the court in the area of protection of the rights of people with disabilities. However, a number of complicated preconditions significantly restrict the exercise of this right in practice.

The situation has not changed since the CSO Meter 2019 report. The recommendations from the previous report have retained their importance in view of the discrediting campaigns against CSOs occurring mostly through the efforts of former government representatives, their affiliated groups, and media outlets. The authorities did not take any steps to protect CSOs, but rather tend to deny any links to 'sorosakan' CSOs so that their public image is not affected.

### **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.<sup>136</sup> 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.<sup>137</sup> A foundation also has the right to act as a plaintiff or defendant in court.<sup>138</sup> The Administrative Procedure Code states that each individual or legal entity has the right to apply to the administrative court if he/she considers that his/her rights and freedoms have been violated or may directly be violated by the state or an LSGB, including when they have encountered impediments to exercise these rights and freedoms, or have not been provided with the necessary conditions to do so.<sup>139</sup>

Public organisations can present public interest cases in court on matters of environmental protection, if the organisation applying to the court complies with a number of requirements. In particular, 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

<sup>136</sup> RA Law on Public Organisations, 16.12.2016, Article 9.

<sup>137</sup> RA Law on Public Organisations, 16.12.2016, Article 16.

<sup>138</sup> RA Law on Foundations, 26.12.2002, Article 3.

<sup>139</sup> RA Administrative Procedure Code, 05.12.2013, Article 3.

filing the application. In May 2021, amendments to the Law on Public Organisations added protection of people with disabilities as another subject on which CSOs are able to present public interest cases in the court in addition to those on environmental protection.<sup>140</sup> The pre-conditions for doing so include the following: the protection of the rights of persons with disabilities is defined in the organisation's charter as the goal of organisation; a simple majority of the 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.<sup>141</sup> In practice, when CSOs have applied to the court in environmental cases, numerous documents have been required to justify their eligibility, or their cases were rejected on the basis of insufficient evidence for compliance with the legal provisions.

In recent years, CSOs have often been subjected to harassment, hate speech, and attacks by third-party organisations and groups. Most often, it is organisations working in the areas of LGBTI rights, domestic violence, women's rights, watchdog organisations, as well as organisations funded by OSF, that are subject to attacks. Last year, disinformation aimed at discrediting human rights CSOs has reached its peak, most often through the widely disseminated label of 'sorosakan' and attempts to portray such CSOs as destructive for the state and nation. OSF's office was attacked, along with Radio Free Liberty's office, during the protests following the ceasefire agreement relating to the Nagorno-Karabakh war.<sup>142</sup> The attacks are being investigated by the police, but OSF representatives mention procrastination and a lack of effectiveness in the investigation process. In the context of post-war frustration and increasing political tensions, a tendency to blame CSOs in relation to weakening national security has been noted, including references to individual representatives of human rights CSOs, depicting them as 'enemy agents.' In December 2020, a film was released by 'Veto' movement, entitled 'Soros's Agent Network Has Been Discovered in Armenia: The Occupation of the State,' which targeted a number of CSOs as supposedly being 'destructive for the state.' More generally, a narrative that is was democracy and liberal values, as opposed to national security, that were among the reasons for defeat in the war was widely disseminated, mostly by the representatives of former governments and their affiliated media outlets.<sup>143</sup>

The Human Rights Defender of Armenia issued a statement calling for a stop to hate speech and insults against CSOs.<sup>144</sup> In a press release published in March 2021, Freedom House drew the Armenian government's attention to the harassment and

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<sup>140</sup> RA Law on Public Organisations, 16.12.2016, Article 16.

<sup>141</sup> RA Administrative Procedure Code, 05.12.2013, Article 216.6.

<sup>142</sup> Armenia: Authorities Must Protect Democratic Institutions and Civil Society, Freedom House, 12.03.2021, <https://freedomhouse.org/Article/armenia-authorities-must-protect-democratic-institutions-and-civil-society>.

<sup>143</sup> Disinformation and Misinformation in Armenia: Confronting the Power of False Narratives, Freedom House, June 2021.

<sup>144</sup> The Human Rights Defender's statement on the inadmissibility of the targeting of the human rights NGOs, Human Rights Defender of the Republic of Armenia, 30.12.2020, [https://ombuds.am/en\\_us/site/ViewNews/1467](https://ombuds.am/en_us/site/ViewNews/1467).

smear campaign against CSOs.<sup>145</sup> However, high-level government officials were mostly silent on this matter. Moreover, the evasive response from officials to media enquiries and their tendency to distance themselves from the CSO sector (for example, rejecting any personal links to OSF-funded CSOs), have been perceived as further encouraging the attacks on CSOs and harming the image of the sector.<sup>146</sup>

Even though calls to violence have been criminalised, CSOs report that the police refuse to initiate proceedings for public threats addressed to CSO members, citing a lack of evidence. Two defamation cases initiated in the court by the leader of a women's rights organisation have been ongoing for several years.<sup>147</sup>

**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 Financing<sup>148</sup> 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. Some 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.

In June 2021, legislative amendments were adopted to introduce a requirement of registration of the beneficial owners of all legal persons.<sup>149</sup> For non-profit organisations, this requirement will enter into force in 2023. Amendments to the regulations on beneficial ownership have been among the priority issues for both civil society and the Armenian government, in the context of the implementation of the anti-corruption measures and fulfilment of Armenia's international commitments in this area. Prior to the submission of this legislative package, discussions were held with different stakeholders, including with CSOs.

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<sup>145</sup> Armenia: Authorities Must Protect Democratic Institutions and Civil Society, Freedom House, 12.03.2021, <https://freedomhouse.org/Article/armenia-authorities-must-protect-democratic-institutions-and-civil-society>.

<sup>146</sup> Focus group discussions, October 2021.

<sup>147</sup> Focus group discussions, October 2021.

<sup>148</sup> RA Law on Combating Money Laundering and Terrorism Financing, 26.05.2008, last amended 03.06.2021, <https://www.arlis.am/documentview.aspx?docid=64606>.

<sup>149</sup> 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>.

### Specific recommendations in this Area are as follows:

- That 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 disinformation targeting CSOs, including through adopting anti-discrimination regulations, issuing public statements, and ensuring proper investigation of attacks against CSOs and activists within a reasonable timeframe.
- That the Central Bank ensures that there is transparency of banks' risk management procedures, for example through adopting a more detailed government regulation on these procedures and particularly on CSO-related checks.
- That the Ministry of Justice and the State Register implement awareness-raising activities and prepare relevant guidelines on the new requirement of disclosing beneficiary owners by CSOs starting 2023.

## 3.9 State Support

Overall score per area: **4 / 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 on and incentives for volunteering remain.

Amendments to the procedure for state funding allocation were adopted in January 2021 to regulate the procedure of announcing grant competitions and the selection process. Otherwise, no significant changes were noted in regard to state support during the latest reporting period. The recommendation from the CSO Meter 2019 report related to ensuring a transparent and participatory process of grant project selection was partially addressed, while the online platform for the publication of grant competition announcements, results, and reports of funded projects has been recently launched and still needs time in order that its functionality can be assessed. The recommendations relating to the enabling tax environment and the promotion of volunteerism were not implemented.

### **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.<sup>150</sup> With the amendments to the procedure adopted in 2021, the funding provided to CSOs is predominantly done in the format of grants on a competitive basis, for a one-year period based on the annual budget of the grant-giving body. Local governments can also allocate funding to CSOs through a separate budget line. However, these allocations are mostly provided on a discretionary basis, based on the applications, and there is a lack of transparency on the process as well as any mechanism for monitoring and accountability of the funded initiatives. CSOs mention a positive experience in some communities, where a specific percentage of the community budget was allocated to civic initiatives on a competitive basis, most often suggested by CSOs. However, such initiatives are often just a one-off and are not institutionalised at a local level. In-kind support is provided at the local level but is mostly limited to the allocation of a space in a community-owned building, which is also done in a discretionary and non-transparent manner.

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

Since early 2021, the legal procedure for allocation of state support for CSOs has improved. In January 2021, the Armenian government adopted amendments to the procedure on allocation of state grants and subsidies to legal entities. The amendments regulate the grant announcement process and organisation of activities of the grant selection committee in more detail, including provisions on conflict-of-interest issues, transparency in the selection process, and setting the selection criteria.<sup>151</sup> Most ministries publish the announcements of grant competitions on their websites; the project reports are not always available, however. The above-mentioned amendments include a provision on carrying out competitions, contracting, and reporting through an electronic system.<sup>152</sup> In August 2021, the Ministry of Finance introduced guidelines for using an electronic platform for publishing grant provision plans, signed grant contracts and contract deliverables, as well as organising grant

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<sup>150</sup> 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>.

<sup>151</sup> RA Government Decision No. 97-N "On Making Amendments and Additions to the Government Decision No. 1937-N dated December 24, 2003", 27.01.2021, <https://www.arlis.am/DocumentView.aspx?docid=149496>.

<sup>152</sup> Ibid., clause 3.

competitions. Since September 2021, the Electronic Public Procurement System at [www.armeps.am](http://www.armeps.am) is used for publishing information about grant budgets and grant contracts. However, the platform lacks open data format, was primarily designed for procurement transactions and is not user-friendly for CSOs.

CSOs and experts mention that the dissemination of information on grant opportunities is not sufficient. In addition, CSOs that have applied or received state grants mention the complicated bureaucratic procedures involved, particularly in regard to the procurement documentation required in the framework of the grant application and implementation process, which hinders further interest in state grants. A lack of skills from civil servants in grant management and monitoring has also been observed.

### Standard III. CSOs enjoy a favourable tax environment.

The tax legislation is generally not favourable for CSOs though 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.<sup>153</sup> At the same time, in-kind donations are taxed with VAT unless there is a governmental decision on VAT exemption, with the tax calculation base accounting for eighty per cent of the value of the donated assets.<sup>154</sup> 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 case of direct entrepreneurship CSOs cannot enjoy the simplified tax regimes that small businesses do. 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 226,400 EUR).<sup>155</sup> 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.<sup>156</sup> Government decisions on charitable projects sets 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.<sup>157</sup> Charitable status is provided for specific projects through its duration but can be revised in cases where issues were identified during the implementation, for example, false information in project documentation or legal infringements.<sup>158</sup> Where a project is given a charitable status, the organisation has to provide an annual report on its activities to the authorised body. The authorised body that makes decisions and

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<sup>153</sup> RA Tax Code, 04.10.2016, Article 108.

<sup>154</sup> RA Tax Code, 04.10.2016, Article 62.

<sup>155</sup> RA Tax Code, 04.10.2016, Article 59.

<sup>156</sup> RA Law on Charity, 08.10.2002, last amended 21.06.2018, Article 16, <https://www.arlis.am/DocumentView.aspx?DocID=123353>.

<sup>157</sup> 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>.

<sup>158</sup> 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.

carries out other relevant functions as per the Procedure of Qualifying and Registering Charitable Projects is the Deputy Prime Minister, who should make the decision based on the recommendation of the Advisory Commission on the Coordination of Charitable Projects.<sup>159</sup>

In practice, the monetary donations to CSOs are not profit taxed as provided by law. The procedure of getting the status of charitable project and further tax exemptions is quite complicated and time-consuming, associated with heavy bureaucratic paperwork and multiple communications with tax bodies required for each transaction. Few CSOs are engaged in direct economic activities, with the unfavourable tax regime serving as one of the reasons.<sup>160</sup>

#### **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. According to the Tax Code, 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 (including companies, individual entrepreneurs, CSOs carrying out economic activities, etc.).<sup>161</sup> In practice, many businesses do not apply for tax exemptions either due to their unwillingness to engage in bureaucratic procedures when the resulting benefit is too small, or because of lack of awareness. According to the latest study on philanthropy, in 2017-2019 only 2.3 per cent of companies working in a profit tax field benefited from profit tax deduction.<sup>162</sup> In-kind donations to CSOs are subject to VAT tax,<sup>163</sup> which hinders initiatives of donating equipment and other material resources by businesses.

#### **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.<sup>164</sup> According to the Law on Charity,

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<sup>159</sup> 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 02.09.2021, <https://www.arlis.am/DocumentView.aspx?DocID=155651>.

<sup>160</sup> According to the information provided by State Revenue Committee, among 1,666 public organisations published their annual report in the SRC system by 20 October 2021, only 89 reported to have an income from entrepreneurial activities.

<sup>161</sup> RA Tax Code, 04.10.2016, Article 123.

<sup>162</sup> Philanthropy in Armenia, "NGO Center" Civil Society Development NGO, [https://ngoc.am/wp-content/uploads/2021/01/Research-Final-Report\\_Nov-2020.pdf](https://ngoc.am/wp-content/uploads/2021/01/Research-Final-Report_Nov-2020.pdf).

<sup>163</sup> RA Tax Code, Article 62.6.

<sup>164</sup> RA Law on Public Organisations, 16.12.2016, Article 17.



volunteers are individuals who perform gratuitous work for charity beneficiaries.<sup>165</sup> Generally, the regulations on volunteers are fragmented and leave gaps in 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. Starting 2017, the Ministry of Labour and Social Affairs developed several drafts of a law on volunteering to regulate the concept of volunteerism, volunteer rights and responsibilities, compensation for costs and other issues. The latest version of the draft is based on the results of discussions with CSOs and was presented for public discussion in 2020, but has not yet proceeded further.<sup>166</sup> The draft received mixed reactions among CSOs, many of them finding that excessive regulations might have a restrictive impact, while, on the other hand, CSOs dealing with a large number of volunteers and engaged in volunteer exchange programmes mention the necessity to address the existing legislative gaps.

In practice, CSOs largely engage volunteers in their work, and the culture of volunteering is growing, 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 setting an effective and user-friendly electronic platform on state grant provision, and adopting regulations mandating transparent and competitive allocations from local budgets; as well as improves the grant administration and monitoring skills of relevant civil servants.
- That the government, particularly the Ministry of Finance, and 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.

<sup>165</sup> RA Law on Charity, 08.10.2002, Article 9.

<sup>166</sup> RA Draft Law on Volunteerism and Volunteer Work, Unified Website for Publication of Legal Acts' Drafts, <https://www.e-draft.am/projects/2516>.

- 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, for example, a one per cent designation law; and<sup>167</sup>
  - Provide meaningful tax deductions for individual and business donations<sup>168</sup> and dismiss VAT taxation requirement for in-kind donations to CSOs.
- That the Ministry of Labour and Social Affairs adopts regulations to address the existing gaps in the legislation on volunteering in consultation with CSOs and particularly volunteer-based organisations.

## 3.10 State-CSO Cooperation

Overall score per area: **3.9 / 7**

Legislation: **4.3 / 7**

Practice: **3.6 / 7**

There is no change in this area compared to the previous reporting period. Cooperation between the state and CSOs is covered by the legislation on participation in policy-making and decisions on set-up and activities of various consultative bodies and joint groups. The importance of collaboration and/or engagement of CSOs is reflected in thematic 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. A decline was noted in the activities of these bodies, while their effectiveness in terms of CSOs' meaningful participation is questionable. Joint working groups in the framework of specific policies or initiatives allow grounds for more substantial and meaningful collaboration to be established. The recommendations from the CSO Meter 2019 report have not been resolved and retain their importance in the current context.

### 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**

<sup>167</sup> For more information, see: "Experiences on the Implementation of the Percentage Designation Mechanism", European Center for Not-for-Profit Law, 10.11.2016, <https://ecnl.org/publications/experiences-implementation-percentage-designation-mechanism>; "Key Aspects of the Percentage Designation Mechanism", European Center for Not-for-Profit Law, 06.04.2020, <https://ecnl.org/publications/key-aspects-percentage-designation-mechanism>.

<sup>168</sup> 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>.

partnerships and joint efforts towards the growth of the CSO sector. Certain legislation establishes opportunities for public participation, particularly through the Public Council, public councils in ministries and other agencies, and sectoral working groups.

The most recent and only document on CSO development was adopted in 2014 under the title 'Concept of Institutional and Legislative Changes for Civil Society Organisations' Development'.<sup>169</sup> Some of the provisions of the concept were incorporated in the new law on public organisations adopted in 2016, but others were not implemented.

At the same time, provisions on collaboration with CSOs were included in state sector-specific strategies and plans, such as 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.

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

The Constitution amended in 2015 includes a provision on the establishment of a Public Council (Public Chamber) as an advisory body to the government.<sup>170</sup> 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.<sup>171</sup> 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.<sup>172</sup> The composition of the Public Council was revised in 2018. A number of meetings were organised and statements publicised through 2020 and the first half of 2021. However, no information on Public Council activities is available after the

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<sup>169</sup> RA Government Protocol Decision No. 40-42 "On approval of the Concept of Institutional and Legislative Changes for Civil Society Organisations Development", 25.09.2014, [https://www.e-gov.am/u\\_files/file/decrees/arc\\_voroshum/2104/09/40-42.pdf](https://www.e-gov.am/u_files/file/decrees/arc_voroshum/2104/09/40-42.pdf).

<sup>170</sup> Constitution of the Republic of Armenia, 05.07.1995, amended on 06.12.2015, Article 161.

<sup>171</sup> RA Law on Public Council, 07.03.2018, last amended 11.02.2021, Article 2, <https://www.arlis.am/DocumentView.aspx?DocID=150514>.

<sup>172</sup> RA Law on Public Council, 07.03.2018, Article 5

resignation of the chairman in June 2021.<sup>173</sup> The functionality and effectiveness of this institution is questioned by CSOs and experts who participated in the monitoring.

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.<sup>174</sup> Based on a government decision, a clause pertaining to public councils was restated in the new exemplary charter for public administration bodies in 2018.<sup>175</sup> 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, none of the ministries organised regular meetings of the councils in the last year, though some of them did reconvene in 2021 and updated their membership through an open announcement. 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 to attend them, as the meetings are held in Yerevan with no possibility to join through online channels and no funding provided for travel expenses. CSOs that participated in the monitoring are generally of the opinion that the councils are a useful mechanism for information exchange and dialogue. However, they also note that in many cases the ministries treat these bodies as a formality and do not give serious consideration to CSOs' input and proposals.

Other area-specific councils and committees have been established 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. 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. In practice, the functionality and effectiveness of these establishments varies depending on the agency and their political will to engage CSOs and incorporate their input. Overall, a decline in the regularity of meetings and officials' interest in providing opportunities for meaningful participation have been noted by CSOs.<sup>176</sup>

Multi-stakeholder working groups have been set up within international initiatives to ensure the commitment to participatory practices within the framework of the Open

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<sup>173</sup> Public Council of the Republic of Armenia, <https://publiccouncil.am/>.

<sup>174</sup> 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>.

<sup>175</sup> 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/>.

<sup>176</sup> Expert interviews and focus group discussions, October 2021.

Government Partnership<sup>177</sup> and Extractive Industries Transparency Initiative.<sup>178</sup> 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 Person<sup>179</sup> and the order of the Minister of Justice.<sup>180</sup> Other monitoring groups oversee the work of institutions providing treatment and care of people with mental health problems,<sup>181</sup> and institutions providing care services for children, the elderly, and people with disabilities.<sup>182</sup> The format of joint groups is deemed effective by CSOs as it allows for participation on a collaborative basis (in contrast to the consultative status in public councils) and thus provides more meaningful input in policy development, implementation and monitoring.

### Specific recommendations in this Area are as follows:

- That the government, particularly the Ministry of Justice, develops and implements a comprehensive strategy/roadmap of civil society sector development through joint work with CSOs and international organisations to provide a more enabling environment for CSOs.
- 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.
- That the government and parliament increase the practice of using the joint working group format as an effective tool for participatory development and implementation of policies.

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<sup>177</sup> The Working Group to coordinate the works stipulated under the 4th Action Plan of the participation of Armenia in the Open Government Partnership, Open Government Partnership Armenia, <https://www.ogp.am/en/working-group/>.

<sup>178</sup> EITI Multi-Stakeholder Group, Government of the Republic of Armenia, <https://www.gov.am/en/eitimsg/>.

<sup>179</sup> RA Law on Detention of Arrested and Detained Persons, 06.02.2002, last amended 11.09.2019, Article 47, <https://www.arlis.am/documentView.aspx?docid=43743>.

<sup>180</sup> Order of RA Minister of Justice No. 126-N, 20.03.2020, <https://www.arlis.am/DocumentView.aspx?docid=140628>.

<sup>181</sup> Order of RA Minister of Health No. 3757-A, 28.12.2017, <https://www.moh.am/images/legal-106.pdf>.

<sup>182</sup> 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>.

## 3.11 Digital rights

Overall score per area: **4.2 / 7**

Legislation: **4.9 / 7**

Practice: **3.5 / 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. The issues related to exercising human rights in online platforms are linked with widespread disinformation and hate speech, while the authorities' efforts to address these issues are not satisfactory and mostly punitive in nature. 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.

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

Considering that digital rights are human rights applied in the digital space, Armenian legislation provides relevant protection mechanisms through human rights-related laws. The legal framework includes constitutional provisions, laws and regulations covering 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.<sup>183</sup>

The right to freedom and secrecy of correspondence, telephone conversations and other means of communication is ensured by the Constitution. The restrictions 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.<sup>184</sup>

Armenia joined the Council of Europe's Convention on Cybercrime in 2006 and the Criminal Code of Armenia criminalized the cyber offences in accordance with the principles declared in the Convention.<sup>185</sup> The dissemination of pornographic material, incitement of hatred, and calls to seize state power or change the constitutional order by force are classified as criminal offences. The act of downloading illegal materials or

<sup>183</sup> RA Constitution, amended on 06.12.2015, Articles 76-79.

<sup>184</sup> RA Constitution, amended on 06.12.2015, Article 33.

<sup>185</sup> RA Criminal Code, 18.04.2003, Articles 251-257.

copyrighted publications is not subject to prosecution unless prosecutors can prove the content was stored with intent to disseminate it. As mentioned in Area 6, public calls to violence and swearing were criminalised, including in online platforms.

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.<sup>186</sup> The use of digital technologies by law enforcement bodies is covered by the regulations on using technical means for operational intelligence, which contains safeguards against the violation of right to privacy. There is no regulation specifically related to artificial intelligence systems. The 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.<sup>187</sup> Telecommunications operators are obliged to provide facilities and support for implementation of operational intelligence by law enforcement and national security representatives in accordance with the legal provisions.<sup>188</sup> 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. According to a recent investigative report, Armenia is on the list of countries with Cytrox spyware clients.<sup>189</sup>

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 Nagorno-Karabakh war, Facebook banned the accounts of a number of media outlets and individuals based on massive reporting by users from Azerbaijan and Turkey. Many government websites were hacked in the same period and the government decided to suspend operation of several government-run websites containing databases of individuals and legal persons. Websites with Azerbaijani and Turkish domains were blocked, though there was no official recognition of the blockage by service providers or the government.<sup>190</sup> For several days, the social media application TikTok was not accessible for users. The

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<sup>186</sup> RA Law on Operational Intelligence Activity, 22.10.2007, Article 32 and 34.

<sup>187</sup> 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>.

<sup>188</sup> RA Law on Electronic Communications, 08.07.2005, last amended 03.03.2021, Article 50, <https://www.arlis.am/DocumentView.aspx?DocID=152672>.

<sup>189</sup> Threat Report on the Surveillance-for-Hire Industry, Mike Dvilyanski, David Agranovich, Nathaniel Gleicher, 16.12.2021, <https://about.fb.com/wp-content/uploads/2021/12/Threat-Report-on-the-Surveillance-for-Hire-Industry.pdf>.

<sup>190</sup> Freedom on the Net 2021: Armenia, Freedom House, <https://freedomhouse.org/country/armenia/freedom-net/2021>.

Human Rights Defender of Armenia stated that aggressive content, hate speech and calls to violence was widely spread in social networks originating from Azerbaijani and Turkish sources, highlighting that these issues are particularly disturbing in the case of TikTok, which has less possibilities for content control and is also widely used by children.<sup>191</sup>

During the state of martial law, many online publications were required to be removed by the law enforcement bodies, and, in some cases, media companies were fined on the grounds of violating the restrictions on freedom of expression set by the legislation on martial law (see also Area 6: Freedom of Expression).

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

In February 2021, the government adopted Armenia's Digitalization Strategy and Action Plan for 2021-2025.<sup>192</sup> The strategy envisages the digital transformation of the government, the economy, and society through 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, as well as initiatives promoting the use of digital technologies in the private sector and by the public. The strategy aims to provide better protection of personal data and intellectual property. Prior to adoption, the strategy was published on the e-draft platform for public consultations. However, CSOs did not participate in the process of developing the strategy.<sup>193</sup>

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. The electronic platform of the Human Rights Strategy (e-rights.am), administered by the Ministry of Justice, publishes information on strategy and government activities in the area of human rights protection. In 2020, a unified platform for submitting petitions (e-petition.am) was launched, providing the possibility to submit petitions to state bodies and receive mandatory responses to these petitions. Both petitions and responses are publicly available depending on the applicant's preferences. New electronic systems are envisioned by the Digitalization Strategy to facilitate access to social services, education, the integration of people with disabilities, and promoting literacy on cybersecurity.

Armenian legislation does not regulate the principle of net neutrality, though the national regulatory authority, the Public Services Regulatory Commission, has made

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<sup>191</sup> "Azerbaijan launched aggressive military air and artillery shelling against Nagorno Karabakh (Artsakh), including its peaceful population which are accompanied with massive hate speech towards ethnic Armenians: Arman Tatoyan," Human Rights Defender of the Republic of Armenia, 28.09.2020, [https://ombuds.am/en\\_us/site/ViewNews/1311](https://ombuds.am/en_us/site/ViewNews/1311).

<sup>192</sup> 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>.

<sup>193</sup> On Approving Armenia's Digitalization Strategy, Unified Website for Publication of Legal Acts' Drafts, discussed 08.06.2020 - 24.06.2020, <https://www.e-draft.am/projects/2524>.



several announcements about technological neutrality being an important principle of regulation.<sup>194</sup> According to the Resolution of this 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.<sup>195</sup> Broadband access to the internet in the entire territory of Armenia, especially targeting access in remote regions, is a basic condition for the implementation of the digital agenda.<sup>196</sup> In practice, the internet is widely accessible in Armenia, and the majority of the population has internet access provided through fixed networks or mobile operators.<sup>197</sup>

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.<sup>198</sup>

Mainly CSOs are at the forefront of digital rights education and media literacy with initiatives and projects aimed addressing existing gaps in awareness of knowledge, which is necessary considering the rise of online disinformation. CSOs often collaborate with government bodies. In March 2021, the public broadcaster launched a programme called ‘Media Literacy’ which broadcasts regularly and covers topics such as fake news, online safety, fraud, social media use, etc.<sup>199</sup> Since 2017, the Ministry of Education, Science, Culture and Sports has collaborated with the Media Initiatives Center CSO to consolidate efforts in media literacy. The joint initiatives included the organisation of an annual Media Literacy Week and integrating media literacy into the new academic standards and programmes.<sup>200</sup> In collaboration with Facebook, a

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<sup>194</sup> 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](https://mdi.am/wp-content/uploads/2020/10/research_on_digital_rights_in_Armenia.pdf).

<sup>195</sup> 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>.

<sup>196</sup> RA Government Decision No. 183-L “On approval of Armenia’s digitalization strategy, its activities’ program and results indicators”, 11.02.2021.

<sup>197</sup> DIGITAL 2021: ARMENIA, DataReportal, 11.02.2021, <https://datareportal.com/reports/digital-2021-armenia>.

<sup>198</sup> RA Law on Protection of Personal Data, 18.05.2015, last amended 09.07.2019, Article 17, <https://www.arlis.am/DocumentView.aspx?DocID=132745>.

<sup>199</sup> Media Literacy, Public TV Company of Armenia, <https://www.1tv.am/en/program/videos/Media-Literacy>.

<sup>200</sup> Media Literacy, Media Initiatives Center, <https://mediainitiatives.am/en/medialiteracy/>.

fact-checking initiative was conducted by a local media CSO, which helped to minimize the sharing of false news and served as a good practice in tackling disinformation.<sup>201</sup> However, the Armenian government has not been proactive in tackling the spread of disinformation.

#### 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.
- In collaboration with relevant organisations, the government should take proactive steps towards improving digital literacy and usage of digital tools both among state servants and the public, including through formal and non-formal education, and with engagement from CSOs working in the area.

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<sup>201</sup>Facebook to tackle misinformation in Armenian, Media Initiative Center, 01.06.2021, <https://mediainitiatives.am/en/facebook-expands-third-party-fact-checking-partnership-with-grassroots-factcheck-georgia-to-tackle-misinformation-in-armenian/>.

# IV. KEY PRIORITIES

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Overall, most of the CSO Meter areas are positively assessed in terms of legal regulations in Armenia, while the greatest challenges lie in these being put into practice.

The main legal gaps are centred on the challenges faced by CSOs in terms of financial sustainability, the complicated requirements for CSOs' representation of public interests in court, the absence of CSO development policies, and a lack of regulations on hate speech and digital rights. As a practical consequence, deteriorations in the areas of participation, freedom of expression, and state protection are reported. On the other hand, the practical possibilities to register an association, solicit funding from various sources, organise and participate in assemblies can be assessed rather positively.

Since the CSO Meter 2019 report, one recommendation has been fully implemented, namely, dismissing the requirement to publish staff members' names in the annual reports of foundations. Three recommendations – the dismissal of the audit requirement for public organisations that have received funding from public sources, improving the competitiveness and transparency of state funding, and protection from third-party allegations and hate speech – were partially addressed through relevant legislative amendments. Most of the recommendations from the CSO Meter 2019 are re-stated in the current report and have even gained greater importance in the context of negative developments over the last year.

CSO financial sustainability and participation in policy-making and implementation remain priority areas, along with the need to address the widespread hate speech and disinformation in online platforms that often targets CSOs and associated persons.

The following recommendations present possible directions of improvement in these areas. Most of these recommendations, particularly those related to the legislation and institutional framework, are to be included in a strategic document, e.g., a roadmap, which would outline the main directions for the development of the CSO environment, thus serving as a comprehensive framework for the policies and efforts taken by the government towards a more enabling environment.

## General recommendation

1. That the government, particularly the Ministry of Justice, develops and implements a comprehensive strategy/roadmap of civil society sector development through joint work with CSOs and international organisations to provide a more enabling environment for CSOs.

## Targeting CSOs and personal data protection

2. The state should provide adequate state protection from hate speech and disinformation targeting CSOs, including through adopting anti-discrimination regulations, making public statements, and ensuring the proper investigation of attacks against CSOs and activists within a reasonable timeframe.
3. That the state develops mechanisms to address hate speech and disinformation with respect to international standards, particularly through focusing on the promotion of media literacy and ethical standards and enlarging the scope of verified and trusted information provided by the government.
4. That the Personal Data Protection Agency implements capacity-building activities on personal data protection for civil servants, CSOs and other stakeholders and, in cooperation with CSOs and area experts, develops the necessary procedures and raises public awareness.

## Financial Sustainability Development

5. 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 at both the national and local levels, including through setting an effective and user-friendly electronic platform on state grant provision, and adopting regulations mandating transparent and competitive allocations from local budgets; and improves the grant administration and monitoring skills of relevant civil servants.
6. 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:
  - a. Simplify the procedures for charity tax exemptions to allow timely and efficient transactions to be made for charitable purposes.
  - b. Provide more beneficial taxation schemes for CSOs' engaged in economic activities to encourage their efforts towards self-sustainability.
  - c. Consider best international practices to stimulate CSO activities through more favourable taxation measures, for example, a one per cent designation law; and

- d. Provide meaningful tax deductions for individual and business donations and dismiss VAT taxation requirement for in-kind donations to CSOs.
- 7. That the Ministry of Labour and Social Affairs adopts regulations to address the existing gaps in the legislation on volunteering in consultation with CSOs and particularly volunteer-based organisations.

## Participation in Decision Making

- 8. That the state utilises the available institutional mechanisms of participation and ensures meaningful participation through engaging CSOs in the early stages of policy development, enforcing mandatory consultations on all legislative drafts, including those produced by members of parliament, providing sufficient time for consultations, organising more frequent face-to-face consultations, including in regions, considering and incorporating CSO suggestions to the greatest possible extent, and demonstrating a genuine interest and commitment in seeking input from civil society and the public.
- 9. 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 providing efforts to make CSOs' input more meaningful through engaging them in the early stages of policy-making and incorporating their proposals as much as possible.
- 10. That the government enlarges CSO engagement in policy implementation and monitoring stages through setting institutional mechanisms and ensuring engagement after the adoption of laws, policies, and strategies.

# V. METHODOLOGY

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The CSO Meter supports regular and consistent monitoring of the environment in which civil society organisations (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 (AB) 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 September 2020 to December 2021.

## 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. Nine experts were interviewed, including two state representatives, three representatives of international organisations, and four representatives from local CSOs.

Two in-person and one online focus group discussions were conducted with the participation of thirty-one Yerevan and regionally based CSOs engaged in the social, educational, youth, environmental, human rights, capacity-building, community development, media, and sports 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 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 AB members in Armenia via online communication and at the in-person meeting held on 20 December 2021. Based on the recommendations of the AB members, the findings and recommendations were further revised and finalised. The report was discussed on a public presentation in April 2022, where the main findings and recommendations were endorsed by the participants and additional recommendations incorporated in the final version of the report.

## Scoring process

The AB 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 extreme values of the scale are conceived as the extreme/ideal situation or environment. For example, (1) is an extremely unfavourable (authoritarian) environment, 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/>. The presented scores in this 2021 report will serve as baseline scores and, in the coming years, progress will be measured against them.

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