

CSO METER

A compass to conducive
environment and
CSO empowerment

MOLDOVA 2022
COUNTRY REPORT

CHIȘINĂU





European Center for
Not-for-Profit Law



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Promo - LEX

Advancing democracy and human rights

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Promo-LEX Association is a non-governmental organisation established in 2002. It aims to advance democracy in Moldova, including in the Transnistrian region, by promoting and defending human rights, monitoring democratic processes, and strengthening civil society.

Promo-LEX Association operates through two programmes:

- (1) the Human Rights Programme, which aims to promote and implement international human rights standards in Moldova; and
- (2) the Monitoring Democratic Processes Programme, which aims to improve the quality of and to increase citizens' level of trust in democratic processes in Moldova.

European Center for Not-for-Profit Law (ECNL) Stichting 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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ACRONYMS & ABBREVIATIONS

AI	Artificial intelligence
AML/CTF	Anti-money laundering and counter-terrorist financing
ANRCETI	National Regulatory Agency for Electronic Communications and Information Technology (<i>Agenția Națională pentru Reglementare în Comunicații Electronice și Tehnologia Informației</i>)
CES	Commission for Exceptional Situations
CNESP	National Extraordinary Commission for Public Health (<i>Comisia Națională Extraordinară de Sănătate Publică</i>)
CPA	Central Public Administration
CSDS	Civil Society Development Strategy 2018-2020
CSO	Civil society organisation
EaP	Eastern Partnership
ECHR	European Court of Human Rights
EGA	Electronic Governance Agency
EU	European Union
EUR	Euro
FATF	Financial Action Task Force
GDP	Gross Domestic Product
GIZ	German Agency for International Cooperation (<i>Deutsche Gesellschaft für Internationale Zusammenarbeit</i>)
GNI	Gross National Income
IoT	Internet of things
LAG	Local Action Group
LGBTQ+	Lesbian, Gay, Bisexual, Transgender, Queer or Questioning, Intersex, Asexual, Ally, etc.
LPA	Local Public Authority
MDL	Moldovan Leu

MoJ	Ministry of Justice
NBS	National Bureau of Statistics of the Republic of Moldova (<i>Biroul Național de Statistică</i>)
NCPDP	National Centre for Personal Data Protection
NPO	Nonprofit organisation
OPFML	Office for Prevention and Combating of Money Laundering
PAS	Party of Action and Solidarity (<i>Partidul Acțiune și Solidaritate</i>)
PSA	Public Services Agency (<i>Agenția Servicii Publice</i>)
SCMC	Single Crisis Management Centre
SIS	Security and Intelligence Service of the Republic of Moldova (<i>Serviciul de Informații și Securitate al Republicii Moldova</i>)
STDM	Digital Transformation Strategy of the Republic of Moldova 2023-2030
STISC	Information Technology and Cyber Security Service (<i>Serviciul Tehnologia Informației și Securitate Cibernetică</i>)
USD	United States Dollar
VAT	Value Added Tax

I. EXECUTIVE SUMMARY

Country context and important trends relevant to the civil society environment

2022 was marked by the aggression of the Russian Federation in Ukraine and the resulting consequences in terms of security threats for the Republic of Moldova. Since the beginning of the invasion, 580,000 Ukrainian refugees have entered Moldova, of which 89,000 still remained in the country at the end of 2022.¹ This influx of refugees led to a robust response from Moldovan civil society which mobilised to provide the necessary assistance to refugees, including transport, accommodation, material aid and counselling. A large part of this support was provided by specialised organisations, but also by groups and associations formed on an ad hoc basis without legal personality. The latter were able to provide a much more flexible and faster response than public institutions, which managed to provide an organised response only a few weeks after the influx of refugees. Many Moldovan civil society organisations (CSOs) extended their goals and activities, and often addressed issues they had not previously considered, in order to adjust to the needs of Ukrainian refugees.

Although it had political stability, the government led by Natalia Gavriliță had to operate in crisis conditions - first in relation to the influx of refugees, and later regarding the energy crisis caused by the increase in energy prices and the reduction of energy carriers' volumes. On 24 February 2022, the parliament, controlled by a parliamentary majority of the pro-European Party of Action and Solidarity (PAS), instituted a state of emergency, which it later extended until the end of the year. Under these conditions, concerns related to the Covid-19 pandemic became secondary to the main efforts focused on the increased security of the country's borders, ensuring public order, protecting the information space and energy security.

In June 2022, the Republic of Moldova received, along with Ukraine, the status of candidate country for accession to the European Union (EU),² which offers an unexpected new perspective for the country's development.

¹ Single Center for Crisis Management "Activity report", 15.09.2022.
https://gov.md/sites/default/files/raport_de_activitate_cugc_15.09.2022.pdf

² <https://www.consilium.europa.eu/en/press/press-releases/2022/06/23/european-council-conclusions-on-ukraine-the-membership-applications-of-ukraine-the-republic-of-moldova-and-georgia-western-balkans-and-external-relations-23-june-2022/>.

Key developments in the civil society environment

In 2022, there were positive developments in the enabling environment for CSOs in Moldova compared to the previous reporting period. While many major problems remain unresolved, in 4 of the 11 areas (*Access to Funding, Freedom of Peaceful Assembly, State-CSO Cooperation* and *Digital Rights*) there were improvements that determined minimum increases in the overall scores. In the areas of *Right to Participation in Decision-Making, State Duty to Protect* and *State Support* there were improvements in the scores for either Law or Practice which did not influence an increase of the overall score for these areas. There is no area with a decreased score versus the previous reporting period. Most of the recommendations stated in the previous CSO Meter remain in place.

The top three areas by score are the same as in 2021: *Freedom of Association* (5.5), *Freedom of Peaceful Assembly* (5.3) and *Access to Funding* (5.3). In the area of *Freedom of Association*, the main deficiencies relate to the registration procedure for CSOs which requires improvement, specifically in its practical aspects through digitalisation and simplification of the required formalities. *Freedom of Assembly* enjoys a very good legal framework, despite limitations imposed on it during the state of emergency. There were improvements in this area such as the inclusion of a human rights-based approach in decision making relating to Covid-19 restrictions and the positive practices employed by law enforcement during the LGBTQ+ Solidarity March in June 2022. In the area of *Access to Funding* there were improvements related to the adoption of amendments to the legislation on philanthropy and sponsorship and the increased availability of funding solutions following the 'refugee crisis'. Although the legal standards are largely met, the practical situation is not favourable and does not enable CSOs to meaningfully access funding from a diverse range of sources.

The three areas with the lowest overall scores are *State Support* (4.3), *Digital Rights* (4.2) and *State CSO-Cooperation* (4.1). The main shortcomings in the area of *State CSO-Cooperation* are, as last year, the lack of a strategic framework for the development of CSOs and the lack of an institutionalised functional framework for CSO cooperation with state institutions. The score for *Digital Rights* registered a small increase following the initiation of the development of the Digital Transformation Strategy for 2023-2030. However, it is an emerging area that lacks a coherent vision and targeted interventions to address the appropriate legislative standards (and even less so in practice). The score for Legislation in the area of *State Support* increased after the Government approved the Framework Regulation regarding the non-reimbursable financing mechanism for projects of non-commercial organisations and the Parliament amended the legislation on philanthropy and sponsorship. The area measures many standards and indicators with various dynamics that are slowly

advancing, but there are many deficiencies that are not resolved yet both in law and practice.

The number of registered CSOs in Moldova has increased from 2021. In 2022, another 398 new CSOs were registered which brought the total number of CSOs to 12,456. Of the newly-registered CSOs, 41 are Local Actions Groups (LAGs) based on the Law on LAGs approved in 2021, and more than 20 are branches of international organisations that came to work with Ukrainian refugees immediately after the influx of refugees into the country. Out of all the registered CSOs, at least 22 per cent have had their internal documents adjusted according to the new Law on Non-Commercial Organisations.

There were also some positive developments, which resonated with previous CSO Meter recommendations. For instance, the Public Services Agency (PSA) has introduced the possibility of online submission of documents for registration. Additionally, in April, after two years of inactivity, the Public Utility Certification Commission resumed its activities and, subsequently, 46 CSOs received public utility status. The Parliament also adopted the amendments to the Criminal Code and Misdemeanour Code on the incrimination of crimes motivated by prejudice (formerly known as draft law no. 301). In September 2022, the Parliament initiated the draft law for a new form of non-profit legal entity, the Association for Intercommunity Development, intended for local public administrations to implement development initiatives. Another initiative concerns the Ministry of Justice (MoJ) which started the drafting of a new law on access to information.

Negative developments for CSOs concerned, in particular, freedom of expression and freedom of assembly. With regard to freedom of expression, the Parliament initiated a wide-ranging draft amendment aimed at protecting the information environment, which, if approved in its initial version, would have created significant premises for the restriction of freedom of expression. One of the main concerns about the draft amendment was the possibility of arbitrary blocking of informational content without a clear procedure or criteria based on the definition of 'false information'. Ultimately, several legal changes were made, including the introduction of the notion of disinformation and the prohibition of militaristic and war propaganda.

Freedom of assembly, after overcoming the restrictions imposed during the Covid-19 pandemic, suffered new limitations during the state of emergency, when the Commission for Exceptional Situations (CES) had the right to ban all assemblies. Following a proposal of the President, Maia Sandu, the CES prohibited assemblies that block traffic on working days and gave exclusive powers to the police to disperse and stop assemblies.

Key priorities

During 2022, 11 out of 51 recommendations put forward in the previous report have been completely or partially implemented, while many of the remaining recommendations are still valid. Two of the nine key recommendations have been fulfilled and implementation of another two was started. One of the key recommendations that has been implemented is the adoption by the Parliament of the amendments to the Law on Philanthropy and Sponsorship. These will improve the conditions for donations to CSOs from business entities. The next step in this regard is the adjustment of the tax benefits for philanthropists.

Another key recommendation that was implemented was the approval by the Government of the Framework Regulation on the non-reimbursable financing mechanism of non-commercial organisations. The Regulation should create a uniform and predictable framework for financing CSOs from the public budget.

Important steps towards implementation have been taken: a new registry for CSOs is being developed and the methodology for establishing the costs of social services was initiated.

The key priorities for the next period are the following:

- The Government should adopt a new strategic document for the development of civil society that should also include actions not performed in the previous strategy, the Civil Society Development Strategy 2018-2020 (CSDS);
- The PSA should develop a modern, interoperable State Registry for Legal Units that will integrate CSOs and simplify the process of registration. The PSA should also provide for the possibility of a fully-online registration procedure for CSOs;
- The legal framework for public procurement should be adjusted with a legal mechanism for social contracting with clear instructions and a standard package of model documents and knowledge should be built in public institutions based on this mechanism;
- Public institutions supported by the Electronic Governance Agency (EGA) should improve transparency and participation in decision-making by developing a unified online platform which would include updated information on legal initiatives at all stages and all amendments from introduction up to adoption;
- Local Public Authorities (LPAs) and law enforcement should adopt non-violent and non-intrusive assistance and response procedures regarding peaceful assemblies based on the observance of human rights, including for critical and anti-Government assemblies;

- The Security and Intelligence Service (SIS) and the Office for Prevention and Combating of Money Laundering (OPFML) should allow the participation of CSOs in the process of identifying measures to address issues identified in the process of assessment and monitoring of the vulnerabilities of CSOs to terrorism financing and money laundering, including policy documents and legislative initiatives aimed at them;
- Parliament should increase tax benefits for philanthropic donations and sponsorship to a level that would provide real benefits for philanthropic activity;
- The Government should adopt amendments provided by CSOs for the regulatory framework on social entrepreneurship in order to boost the development of related initiatives;
- The Parliament should amend the legal framework on access to public interest information based on the Council of Europe Convention; and
- LPAs should increase transparency in decision-making by developing modules on their web pages similar to those used by the Government (www.particip.gov.md) and establish District Participation Councils based on existing functional models.

II. MOLDOVA – IN NUMBERS

Basic data

Population: 2.6 million³ | GDP per capita: USD 5,230.7⁴ | Number of CSOs: 12,456 (out of 15,458 non-commercial organisations)⁵ | CSOs per 10,000 inhabitants: 47 | Registration fee for CSOs: None (for most forms, except LAGs, trade unions (60 EUR) and employers' unions (5 EUR) | Freedom in the World: 62/100 (Partly Free)⁶ | World Press Freedom Index: 73.47 (40 out of 180 countries)⁷ | Public trust in CSOs: 24 per cent⁸



Country score: **4.7**
 Legislation: **5.1**
 Practice: **4.4**

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

Areas	Overall	Legislation	Practice
Freedom of Association	5.5	5.6	5.3
Equal Treatment	4.6	4.8	4.4
Access to Funding	5.3	5.7	4.8
Freedom of Peaceful Assembly	5.3	5.4	5.1
Right to Participation In Decision-Making	4.8	5.2	4.4
Freedom of Expression	5.0	5.3	4.6
Right to Privacy	4.4	5.3	3.4
State Duty to Protect	4.6	5.0	4.2
State Support	4.3	4.7	3.9
State-CSO Cooperation	4.1	4.3	3.9
Digital Rights	4.2	4.4	4.0

³ National Bureau of Statistics, <https://statistica.gov.md/category.php?!=ro&idc=103&>.

⁴ The World Bank, <https://data.worldbank.org/country/moldova>.

⁵ State Registry of Non-Commercial Organisations, <https://asp.gov.md/ro/informatii-utile/date-statistice>. In this report the term CSO includes public associations (11020), foundations (498), private institutions (215), employers' unions (155), periodic publications (116), unions of legal persons (127), trade unions (107) and other non-commercial organisation (218). Other legal forms of non-commercial organisations which are not considered as CSOs include of religious cults (1,761), public institutions (1,189) and political parties (52).

⁶ Freedom House, <https://freedomhouse.org/countries/freedom-world/scores>.

⁷ World Press Freedom Index, <https://rsf.org/en/ranking>.

⁸ Public Policies Institute, Public Opinion Barometer, November 2022, <https://ipp.md/wp-content/uploads/2022/12/Sondajul-BOP-noiembrie-2022.pdf>.

III. FINDINGS

3.1 Freedom of Association

Overall score per area: **5.5 / 7**

Legislation: **5.6 / 7** | Practice: **5.3 / 7**

Freedom of association is enjoyed by any natural or legal person, except for public authorities and institutions and state and municipal enterprises that cannot establish or become members of CSOs. The registration procedure for CSOs is free of charge and takes up to fifteen days. There are issues regarding the obligation of CSOs to provide additional documents and fees based on complementary legislation.

CSOs are free to design their own internal structure and to establish their own goals and activities without territorial limitation.

The registration procedure slightly improved in the current reporting period and the PSA operates a system that reduces errors in documents and implementation of registration fee requirements and allows CSOs to submit documents in electronic form signed with a qualified electronic signature. People are also free to associate without registration, both offline and online. CSOs may be subject to sanctions for violations of general legislation, but there is no recorded systemic use of such sanctions.

The PSA registered forty-one LAGs based on the law adopted in 2021. A draft Law on Intercommunity Development Associations, a new form of association of two or more LPAs, was initiated. In addition, 1,800 CSOs adjusted their documents based on the Law on Non-Commercial Organisations adopted in 2020.

The overall score for the area of Freedom of Association, as well as the scores for Law and Practice, remained the same as in 2021.

The main recommendations for improving the situation for CSOs in this area are enabling online registration and the elimination of additional fees and documents required for registration.

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

Freedom of association is protected narrowly in the Constitution of the Republic of Moldova,⁹ provided for only as the right to join and create trade unions. Freedom of association is regulated by the Law on Non-Commercial Organisations¹⁰ adopted in 2020. Any legal or natural person can establish a CSO and become a member of one, except for public authorities and institutions and state and municipal enterprises, that may not form non-commercial organisations and may not become members of such

⁹ Art. 42, The right to establish and join trade unions, Constitution of the Republic of Moldova, 1/1994, https://www.legis.md/cautare/getResults?doc_id=111918&lang=ro.

¹⁰ Law on Non-Commercial Organisations, 86/2020, https://www.legis.md/cautare/getResults?doc_id=122391&lang=ro.

organisations. CSOs are free to accept or refuse new members according to their statutes. Any interested person has the possibility to engage in volunteering or to support CSO activities.

There are three legal forms of CSO provided for by law: (i) public association; (ii) foundation; and (iii) private institution, all of which can operate without territorial limits. The association in the form of LAG¹¹ is regulated by the Law on Local Action Groups,¹² adopted in 2021. In 2022, the PSA registered forty-one LAGs, for a registration fee of 1,149 MDL (around 60 EUR)¹³, similar to the fee for trade unions.

In September 2022, the Parliament initiated the drafting of the Law on Intercommunity Development Associations. This is a new form of association designed for two or more LPAs to implement development initiatives of local and regional interest and to provide community services.

After the influx of refugees into Moldova from Ukraine, many CSOs extended their goals and activities to address the needs of refugees. The PSA also registered over twenty branches of international organisations with humanitarian profiles, thus doubling the total number of branch organisations in Moldova.

People are free to associate online and offline without registration, but, in this case, they cannot operate bank accounts, access funding, access public information or have other benefits designated for legal persons. CSOs are free to request and receive financial and material means.

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

The registration procedure for CSOs is free of charge and, according to the law, takes up to 15 days, although sometimes the procedure is performed more quickly. Registration of public associations is usually done at the PSA's regional centres distributed across the country, while applications for foundations and private institutions, even if collected regionally, are processed by the central unit of the PSA.

Starting from 2022,¹⁴ the PSA can receive registration documents electronically and signing of documents by qualified electronic signature is possible.¹⁵ Registration is carried out based on a pre-defined list of documents provided by law and a declaration on the beneficial owner of the legal entity¹⁶ required by anti-money laundering and

¹¹ LAGs are institutionalised partnerships of representatives of the public, civic and business sectors at the microregion level focused on local development. LAGs are key stakeholders in the [LEADER](#) approach.

¹² Law on Local Action Groups, 50/2021, https://www.legis.md/cautare/getResults?doc_id=126245&lang=ro.

¹³ PSA, Fees for registration of non-commercial organisations, <http://asp.gov.md/servicii/persoane-juridice/211-2>.

¹⁴ Law for the modification of some normative acts 175/2021, https://www.legis.md/cautare/getResults?doc_id=128924&lang=ro.

¹⁵ Art. 8 par. 1 (a) Law regarding the state registration of legal entities and individual entrepreneurs 220/2007, https://www.legis.md/cautare/getResults?doc_id=133261&lang=ro#.

¹⁶ Based on Art. 14 of Law on Preventing and Combating Money Laundering and Terrorist Financing, 308/2017, https://www.legis.md/cautare/getResults?doc_id=110418&lang=ro.

counter-terrorism financing (AML/CTF) legislation. The latter has been criticised as having no objective substance for CSOs, because the head of the CSO indicated in this declaration neither owns nor benefits from the CSO's activities, and his/her name appears in the official records in any case. In the case of private institutions, the PSA also requires that CSOs¹⁷ provide extracts that the PSA itself issues for a fee. The PSA also charges CSOs 284 MDL (around 15 EUR) for issuing a certificate for emergency verification of name availability.¹⁸ The same service may be performed for free within five days. Another service requested at registration is the approval of proposed organisation names for 100 MDL (5 EUR). The PSA may only refuse registration in a limited number of circumstances provided by law, including for the absence of a declaration on the beneficial owner. According to the PSA, there were no cases of refusal to register in 2022. Judicial review is provided in cases of refusal. Starting in 2021, the PSA operates a system¹⁹ that excludes errors in registration fees from previous years, when some operators charged CSOs the fee for a commercial organisation, and thus human error is minimised.

According to the Law on Non-Commercial Organisations, CSOs had to adjust their registration documents at the PSA by September 2022, otherwise they might be subject to a forced liquidation procedure by the MoJ. One of the main adjustments required consists of the express mention in the CSO's statute of the functions with the role of CSO administrator (either CEO or president) and the exclusion of the administrator from the board of the CSO. By the time of this report, 1,800 non-commercial organisations (17 per cent of the total registered before the new law in 2020) had adjusted their registration documents at the PSA. Another 803 CSOs registered since the entering into force of the new law, bringing the total number of CSOs with adjusted documents to 2,603 (22 per cent of the total registered). Other CSOs that did not undergo the procedure may have their registration documents in line with the legislation. According to the law, the MoJ can initiate a forced liquidation procedure for CSOs that have failed to adjust their documents. However, this procedure requires significant effort and will most likely not be implemented. Currently, the PSA is continuing to adjust CSOs' documents, even after the expiration of the legal term provided by law.

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

CSOs are free to establish their own goals and activities and can operate without limitation on the territory of the country which is under the control of the

¹⁷ PSA, List of documents required for registration of Private institution, <http://asp.gov.md/sites/default/files/documente-necesare/institutiei-private.pdf>.

¹⁸ PSA, Terms and fees for Elaboration and approval of the names of legal units, <http://asp.gov.md/ro/servicii/persoane-juridice/101>.

¹⁹ SIA „Oficiu web”.

constitutional authorities. CSOs engage in different legal areas of operation, nationally and also internationally via structures, platforms and other formats, without obstacles imposed by state authorities.

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.

CSOs may be subject to sanctions for violations of general legislation, but there is no recorded systemic use of such sanctions. Involuntary termination of a CSO is possible if its activity is contrary to the interests of national security, public security, and the protection of the rule of law or the prevention of crime, or the protection of the health, morals, rights and freedoms of others. Failure to present an annual activity report following repeated requests from the MoJ is also a reason for involuntary termination of a CSO on the condition that this is necessary in a democratic society. The court may suspend a CSO during the settlement of a liquidation claim, but only if necessary in a democratic society. The court may allow CSOs to remove, within six months, the deficiencies that led to the liquidation claim. In 2022 there were no cases of involuntary suspension or liquidation of CSOs.

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

CSOs are free to design their own internal structure, governance bodies and operations. The legislation requires the existence of an executive/administrator body but does not require the existence of a permanent management body (such as a Board of Directors) or a control body (if the organisation opts for an external annual audit). The previous right of the registering authority to obtain information about all aspects of a CSO's activity, to review the CSO's documents and to monitor all of its actions is no longer valid in the new law. CSOs have to publish (mostly online) their annual narrative reports within six months of the end of the year, or present a copy of the report to anyone who asks to see it. CSOs are also required to submit periodic reports about their financial and tax situations, which include reports on income tax withholding, mandatory health insurance and mandatory social insurance contributions (monthly), consumables and expenditures (quarterly), and their financial situation (annually). Other reporting obligations apply to CSOs that benefit from different complementary mechanisms and these can include a report on the use of funds received as percentage designation, a report of the host volunteer organisation or a report concerning security incidents for personal data operators. Most of the aforementioned reports can be easily submitted online.

CSOs are rarely subject to financial and tax inspections performed by government institutions.²⁰ CSOs that provide medical and social services are regularly verified by

²⁰ Art. 57, Title V, Chapter 11, Tax Audit, Tax Code of the Republic of Moldova, 1163/1997, https://www.legis.md/cautare/getResults?doc_id=79111&lang=ro.

specialised institutions for compliance with hygiene and sanitation conditions. CSOs that employ persons with disabilities that have the right to receive subsidies²¹ are also verified periodically.

Specific recommendations:

- The PSA should simplify the procedure for CSO registration by excluding de facto fees for registration, such as the request for an extract with the possibility of autonomous generation of extracts and should perform the CSO name availability verification at the time of the registration appointment (with the option to check this online in advance with the State Register of Legal Units);
- The Parliament should eliminate the requirement for CSOs to provide a statement on their beneficial owner given that the legal notion does not coincide with the lexical meaning of the term and the practical application does not correspond to the purpose provided in the Law on Preventing and Combating Money Laundering and Terrorism Financing;
- The PSA should put in place the necessary systems (and build upon the positive new practice of electronic submission of documents) to enable CSOs to register online; and
- The PSA and the MoJ, in collaboration with CSOs, should identify a legal solution for the situation of CSOs that have not adjusted their documents according to the provisions of the Law on Non-Commercial Organisations.

3.2 Equal Treatment

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

Legislation: **4.8 / 7**

Practice: **4.4 / 7**

There are several challenges in the application of equal treatment of CSOs by the state. The registration procedure for CSOs is free of charge, but is slower, more complicated and less accessible than for commercial entities. The State Register of Non-Commercial Organisations is outdated and not interoperable with other registers, which slows down the registration procedure. A unified State Register of Legal Units, including CSOs, is being developed and is expected to be delivered in June 2023. Commercial entities are favoured in public procurement procedures, but are more exposed to tax audits compared to CSOs. There was no progress in improving the legal framework for the participation of CSOs in public procurements as cited in previous reports, but the processes for development of the methodology for calculating the costs of social services and the development of instructions regarding the purchase of social services were launched. The list of CSOs that

²¹ Government Decision for the approval of the Regulation on Subsidising Jobs, 49/2021, https://www.legis.md/cautare/getResults?doc_id=126195&lang=ro.

benefit from preferential subsidies from the state budget was extended with two new CSOs added. Smear campaigns against CSOs promoted by political leaders have decreased in intensity compared to previous years, but the phenomenon is still present.

The scores for the area of Equal Treatment remained the same as for 2021. The situation in this area has remained largely the same as in the previous reporting period.

The main continuing recommendations refer to the necessity to adjust the legal framework for public procurements for social contracting from CSOs and the development of a modern, interoperable State Register of Legal Units.

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

Commercial entities benefit from more favourable treatment than CSOs in several respects. The duration of CSO registration (up to fifteen days) is longer compared to commercial entities that can register in twenty-four hours, or in four hours if the priority service is used.²² CSOs are also required to provide a greater number of documents for registration than a business entity, such as the statute, the confirmation of an existing office/legal address and contact data, a certificate for name availability verification, and, in the case of national associations and sports federations, a permit from the public authorities. Online registration is not possible either for commercial entities or for CSOs.

Registration of commercial entities is supported by an automated registration system that provides data and an overall quicker registration procedure. The state register of CSOs²³ itself is outdated and not interoperable with other registration systems. This causes slowdown in the records of CSOs and the registration procedure. Hundreds of CSOs that were previously registered by LPAs are still not included in the state register because local documentation has been lost by LPAs. These CSOs cannot therefore receive legal extracts from the registering authority, although in most cases they hold fiscal codes and are effectively functional. Currently, a new Register of Legal Units is being developed and is expected to be finalised by June 2023. The new unified Register is expected to replace the current register which is effectively a periodically-updated Excel file and the official Register of Commercial Units.

On the positive side, registration is free for CSOs, while commercial entities are charged 18 EUR (the normal procedure for individual entrepreneurs),²⁴ 55 EUR (the normal procedure for other business entities) or 220 EUR (the urgent procedure for other business entities).²⁵ Fees for the issuance of certificates are equally applied to CSOs and commercial entities.

²² <https://asp.gov.md/ro/servicii/persoane-juridice/21/211>

²³ State Registry of Non-Commercial Organisations, <https://asp.gov.md/ro/informatii-utile/date-statistice>

²⁴ PSA, Terms and fees, Registration of the individual entrepreneur, <http://asp.gov.md/ro/servicii/persoane-juridice/21/211-3>.

²⁵ PSA, Terms and fees, Registration of legal persons, <http://asp.gov.md/ro/servicii/persoane-juridice/21/211>.

While financial reporting requirements are subject to similar provisions, in contrast to CSOs, business entities are not required to submit annual activity reports. Failure to submit this report may serve as a reason for termination for a CSO.

Voluntary termination of a legal entity is preceded by the liquidation procedure, both for commercial entities and CSOs. The liquidation procedure is more complicated and time-consuming than registration and is followed by deletion from the registry which is free of charge and performed within three days.

There are certain disadvantages for CSOs when participating in public procurement alongside commercial entities. CSOs' participation is hindered by burdensome requirements such as bank certificates (with a 10 per cent guarantee), a certificate of proper performance of the contract (a bank guarantee of a maximum of 15 per cent for the winner of the contract) and delayed payment for services. The capacity of CSOs to provide quality services is also an issue.²⁶ The concept of social order (a form of contracting social services by the state) is provided for in law, but there is no regulatory mechanism to support it. Added to this, the nomenclature of social services is outdated; there are no model agreements adapted to CSOs that can be used by public authorities, and there is no proper methodology for establishing costs for social services. In 2022, the process of developing the methodology for calculating the costs of social services was launched.²⁷ In tandem, a project financed by the EU will also develop an applicative instruction regarding the purchase of social services that will provide public institutions with practical guidelines on contracting social services.²⁸

Access to funding, including from outside the Republic of Moldova, is subject to similar conditions irrespective of whether the entity is for-profit or not-for-profit. The State Tax Service operates fewer controls on non-commercial organisations, however, compared to commercial organisations, as the former are less susceptible to fiscal irregularities such as tax evasion and 'under the table' salaries. In the first nine months of 2022, there were 10,763 controls on commercial organisations and 54 controls on non-commercial organisations (i.e. 8.6 per cent of commercial organisations²⁹ and 0.5 per cent of non-commercial organisations; therefore 18 times less for the latter).

²⁶ APSCF, Baseline study on social services for people with intellectual and psychosocial disabilities and for vulnerable children, 2018, https://aliantacf.md/wp-content/uploads/2019/04/FSM_SSMB_Baseline_Study_Report_Executive-summary_EN.pdf.

²⁷ <https://civic.md/stiri/comunicate-de-presa/66120-grupul-de-lucru-consultativ-creat-de-ministerul-muncii-si-protectiei-sociale-a-inceput-elaborarea-metodologiei-de-calculare-a-costurilor-serviciilor-sociale.html>.

²⁸ The project "Civil Society Organisations Acting for Better Social Services", financed by the European Union, co-financed by the Soros Moldova Foundation and implemented by Keystone Moldova and Institutum Virtutes Civilis, <https://www.keystonemoldova.md/en/projects/civil-society-organizations-acting-for-better-social-services/>.

²⁹ There are 125,248 active commercial organisations according to the State Registry of Legal Units, <https://asp.gov.md/ro/informatii-utile/date-statistice/rsud-forma>

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

The law³⁰ stipulates that public authorities should treat all non-commercial organisations equally and should not discriminate against them. Also, the law does not differentiate based on the nationality of a CSO's founders or members, nor does it require the managers of CSOs to be resident in Republic of Moldova, as was required by the previous law.

However, for at least a decade, state authorities have been applying continuous preferential treatment to three CSOs for persons with disabilities,³¹ which receive an annual subsidy from the state budget on the basis of a legal provision.³² Other CSOs that work with disabled people do not benefit from this support. In 2022, the law that provides for the preferential funding of these three CSOs was supplemented³³ with a provision for the partial subsidisation of two other CSOs in order to facilitate the access of people with disabilities to cultural destinations and events.

The problems faced by CSOs registered at the PSA with their headquarters in the Transnistrian region persist, such as the refusal of banks in the Republic of Moldova to open bank accounts for them, an issue exemplified in 2022 by the case of the Association Roma Diaspora "Tent on the Nistru".

Smear campaigns and media attacks against CSOs promoted by political leaders and instigated by politically affiliated media decreased in intensity in 2022 compared to previous years. The attacks registered in 2022 particularly targeted media representatives, including from non-commercial media institutions, and CSOs specialised in justice and human rights, or in LGBTQ+ issues.

Specific recommendations:

- The PSA should develop a modern, interoperable State Register of Legal Units that integrates CSOs and simplifies the registration process, including the digitisation of PSA services, enabling the online registration of CSOs and the online issuance of any registration documents/certificates. When preparing the technical specifications, the PSA should take into account the needs of people with sensory disabilities. The register should also include filters and functionality features that would allow access to other public interest information on CSOs

³⁰ Art. 5(2), Law on Non-Commercial Organisations, 86/2020.

³¹ The Society of Invalids of the Republic of Moldova, the Society of the Blind of the Republic of Moldova and the Association of the Deaf of the Republic of Moldova.

³² Art. 36(2), Law on Social Inclusion of Persons with Disabilities, 60/2012, https://www.legis.md/cautare/getResults?doc_id=110494&lang=ro.

³³ Law 158/2022 amending the Law no. 60/2012 on the social inclusion of people with disabilities https://www.legis.md/cautare/getResults?doc_id=131893&lang=ro.

(2¹) The state partially subsidises the National Information and Rehabilitation Center of the Public Association "Association of the Blind from Moldova" and the Public Association "Republican House of Culture of the Deaf from Moldova" in order to facilitate the access of people with disabilities to cultural destinations and events.

(such as membership, public benefit status, and percentage designation mechanism);

- State institutions should modify existing access protocols to annual subsidies dedicated to persons with disabilities to ensure equitable access and distribution to organisations centred on persons with disabilities;
- The Government should adjust the legal framework for public procurements with a legal mechanism for social contracting in order to provide instructions, a standard package of model documents and to remove barriers for CSOs (e.g. bank guarantees);
- Knowledge and capacity should be built in the Public Procurement Agency and in LPAs in the field of social services contracting; and
- Affected CSOs and persons should use legal/judicial tools to claim sanctions against perpetrators who articulate attacks against them.

3.3 Access to Funding

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

Legislation: **5.7 / 7**

Practice: **4.8 / 7**

CSOs can use different methods to access various sources of funding, but foreign funding is their main source of income. There are some limitations on the financial operations of CSOs determined by AML/CTF legislation in relation to international transactions. During the influx of Ukrainian refugees to Moldova, CSOs had a crucial role in collecting and distributing substantial amounts of money and other donations from national and international donors to support refugees. The subject of foreign funding of CSOs continued to be exploited by illiberal politicians either to stigmatise CSOs or for other political purposes, albeit with less intensity than before.

The overall score in the area of Access to Funding increased from 5.2 in 2021 to 5.3 in 2022. Both the scores for Legislation (from 5.6 to 5.7) and Practice (4.7 to 4.8) also increased in 2022. The improvement in Practice is related to the increased availability of funding opportunities following the arrival of refugees from Ukraine. The Law score improved mainly due to the adoption by the Parliament of the amendments to the legislation on philanthropy and sponsorship. Nevertheless, philanthropic activity is complicated for CSOs by fiscal provisions that do not encourage donations from the business and private sectors.

The main recommendation in this area is that the Parliament should increase tax benefits for philanthropic donations and sponsorship to a level of that would provide real incentives and benefits for philanthropic activity.

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

CSOs are free to request, receive and use financial and material means, from within the country or from abroad, including public funds, in order to achieve their statutory purposes.³⁴ A CSO can also finance programmes, within the country and abroad, by providing grants, scholarships, material and financial aid. CSOs can also engage in economic activities, including social entrepreneurship.³⁵

CSOs can use any legal methods and sources of fundraising, such as international donors, traditional donations, crowd funding, SMS or online donations, a percentage designation mechanism, membership fees, support from the state, support from business entities, and general economic activities. Following the influx of refugees into Moldova from Ukraine, CSOs were the first to react and provide substantial support to the refugees. For this purpose, CSOs collected indispensable amounts of money and other donations from national and international donors. Donations were also collected by unregistered CSOs.

Access to funding is not subject to government approval, except for in the case of state funding. The requirements for CSOs to receive, use and report funding are subject to the rules of the donor institutions and banking regulations.

According to the latest data published by the CSO Sustainability Index for Moldova,³⁶ in 2021, CSOs received revenues in the amount of 233 million USD, 7 per cent less than in 2020, but 18 per cent more than in 2019. According to the National Bureau of Statistics (NBS) in the same report, in 2021 only about 30 per cent of registered organisations filed reports with the NBS, approximately 80 per cent of which are based in the capital, Chişinău. According to the National Risk Assessment of Money Laundering and Terrorist Financing,³⁷ 40 per cent of registered CSOs were financially active in 2019.

Most CSOs (including independent investigative media) are dependent on international funding as their main source of financing. Over the past few years, local CSOs have been the beneficiaries of consistent budgets offered by the major international donors.

Most CSOs' financial operations are conducted through banking operations. In this regard, some limitations on their financial operations are determined by AML/CTF legislation. Pursuant to this, CSOs must provide additional documentary justification

³⁴ Arts 3(3) and 7(1)(d), Law on Non-Commercial Organisations, 86/2020.

³⁵ Art. 6(2), Law on Non-Commercial Organisations, 86/2020.

³⁶ USAID, CICO, „2021 CSO Sustainability Index Moldova” 2022, <https://storage.googleapis.com/cso-si-dashboard.appspot.com/Reports/CSOSI-Moldova-2021.pdf>.

³⁷ Money Laundering Prevention and Combating Service, “The National Money Laundering and Terrorist Financing Risk Assessment Report”, 2022 http://spscb.gov.md/ro/news/raportul-privind-evaluarea-naional-a-riscurilor-in-domeniul-sp-l-rii-banilor-i-finan-rii-terorismului?fbclid=IwAR0Q2RvREUxzooq9PDeimzt_vDGwve4HjN-1L7yILdy8Zq7sJLdQlvdgWDY.

to banks in order to transfer any refunds to donors abroad. In some cases, these procedures can delay transfers by up to two days.

Although provided for by law, philanthropic activity is complicated by provisions that do not encourage donations from the business and private sectors. The Platform for the Promotion and Development of Philanthropy (*Platforma pentru Promovarea și Dezvoltarea Filantropiei*) is the main driving force that supports capacity building of CSOs in this field through its work to promote changes in the legal framework for philanthropic activity and sponsorship. In July 2022, the Parliament adopted³⁸ amendments to the legislation on philanthropy and sponsorship law developed by the Platform. The adopted amendments provide regulations on the recording and manner of use of donations, transparency for philanthropic activity and sponsorship, clear definitions for the main relevant terms and a revised and extended list of the goals of philanthropic activities.³⁹ The next important step necessary to promote philanthropic activities and to encourage donations from the business and private sectors would be increasing the tax benefits for donors. The new law does not address this issue. Currently, donors have the right to deduct any donations for philanthropic or sponsorship purposes, but not more than 5 per cent of the taxable income. This does not, however, serve as a real incentive for donors to give to the civil society sector.

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

CSOs can receive and use funds from abroad and from within the Republic of Moldova without barriers and under the same tax conditions. Additionally, funding provided by international donors that falls within the scope of international treaties that the Republic of Moldova is party to may be exempt from taxes and customs clearance.⁴⁰ International donors remain the most important source of financing for CSOs.

The subject of international financing of CSOs has periodically appeared in a critical context, especially in media affiliated to the illiberal political spectrum, but less intensively than in previous years.

Specific recommendations:

- Political leaders and officials should completely refrain from any attacks and attempts to restrict the work of CSOs based on the source of funding;
- State institutions should stop attacks and smear campaigns against CSOs in the information space and should apply sanctions to the perpetrators of such attacks;

³⁸ Law for the amendment of some legislative acts 172/2018
https://www.legis.md/cautare/getResults?doc_id=105528&lang=ro.

³⁹ <https://csometer.info/updates/moldova-draft-law-amending-legislation-philanthropy-and-sponsorship-voted-first-reading>.

⁴⁰ Government Decision on how to apply the tax and customs facilities related to the implementation of investment and technical assistance projects that fall within the scope of international treaties that the Republic of Moldova is party to, 246/2010, https://www.legis.md/cautare/getResults?doc_id=116618&lang=ro.

- CSOs should increase their capacity to raise funds from all available legal sources, aside from solely from international grants;
- CSOs should promote good models and practices for accessing other sources of financing; and
- The Parliament should increase tax benefits for philanthropic donations and sponsorship to a level of that would provide real incentives and benefits for philanthropic activity.

3.4 Freedom of Peaceful Assembly

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

Legislation: **5.4 / 7**

Practice: **5.1 / 7**

Every person has the freedom to organise and participate in public assemblies. Organisers must comply with a notification procedure that is not mandatory in the case of spontaneous assemblies or assemblies with less than fifty participants. Simultaneous assemblies are allowed. There were no reported cases of anyone being forced to participate in or being prohibited from participating in peaceful assemblies, apart from a documented widespread practice of the organiser paying protest participants.

Law enforcement generally support and protect peaceful assemblies with legal provisions generally in line with a human rights-based approach, but with weaknesses in practice related to the lack of standard operating procedures. The excessive use of force by law enforcement or a failure to protect participants in peaceful assemblies can lead to disciplinary and penal sanctions. The use of surveillance devices to police or monitor assemblies is not regulated.

Online assemblies are not regulated but there is a growing practice of assembling online.

During the state of emergency imposed following the Russian invasion of Ukraine, and only one year after the restrictions associated with Covid-19 had been lifted, the CES prohibited assemblies that blocked traffic during working days and accorded the police the sole role in legal procedures related to stopping and dispersing an assembly. On a practical level, these limitations did not have a significant impact on the exercise of freedom of assembly.

The Mayor of Chişinău used unlawful conduct to try to sabotage the LGBTQ+ Pride March, but the police protected participants when the Pride March went ahead. There have also been issues regarding the lawfulness of police intervention while dispersing anti-government protests. Moldovan law provides every person with the freedom to organise and participate in public assemblies, including a notification procedure. Online assemblies are not regulated, but there is a growing practice of assembling online.

The main recommendations in this area remain the same as in the previous CSO Meter report (2021).

The overall score for the area of Freedom of Peaceful Assembly increased from 5.2 in 2021 to 5.3 in 2022. This improvement was determined by the increase of the Practice score from 5.0 to 5.1 in 2022, due to the inclusion of human rights experts in aligning Covid-19-related decisions to a human rights based approach and due to positive practices of law enforcement during the LGBTQ+ Pride March. The score for Legislation in this area has remained the same as in 2021.

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

The right to free assembly is guaranteed by the Constitution⁴¹ and the Law on Assemblies provides the effective framework for organising and conducting assemblies.⁴² The law defines public assemblies as gatherings held in outdoor public spaces, including in the form of spontaneous, simultaneous assemblies or counter manifestations. The law is not aligned with General Comment No. 37 of the UN Human Rights Committee,⁴³ therefore it does not regulate assemblies held in private spaces or online, but neither does it prohibit them. Nevertheless, digitally-based assemblies and digitally-mediated assemblies are a common phenomenon as well as assemblies held in private spaces with public access. Spontaneous assemblies are exempt from a notification procedure. In the case of simultaneous assemblies, LPAs summon organisers to agree on how to divide the public space.

Any person, local or foreign, with full exercise capacity, groups of persons, or any legal person, can organise assemblies. Minors over fourteen years old can organise an assembly only if accompanied by a person with full exercise capacity. Anyone can freely and voluntarily participate in or assist at an assembly, as well as record images of it.

In June 2022, the Ministry of Internal Affairs launched for consultation⁴⁴ a draft amendment to the Law on Assemblies, which contained restrictions contrary to international standards on freedom of assembly, such as banning assemblies held less than 10 meters away from the headquarters of state institutions and diplomatic missions and amending the authorisation procedure for assemblies held in the border area. Following criticism from CSOs, the Ministry ceased all activities related to pursuing the draft amendment. The proposed amendments came in the context of hybrid security threats following the Russian invasion of Ukraine, which the authors believe could also involve street protest technologies (technologies used to organise and implement assemblies that have the purpose to protest).

⁴¹ Art. 40, Freedom of Assembly, Constitution of the Republic of Moldova.

⁴² Law on Assemblies, 26/2008, https://www.legis.md/cautare/getResults?doc_id=110166&lang=ro.

⁴³ General Comment No. 37 (2020) on the right of peaceful assembly (Art. 21), UN Human Rights Committee, <https://digitallibrary.un.org/record/3884725?ln=en>.

⁴⁴ <https://particip.gov.md/ro/document/stages/anunt-privind-initierea-procesului-de-elaborare-a-proiectului-hotararii-de-guvern-pentru-modificarea-unor-acte-normative-legea-nr-262008-privind-intrunirile-codul-contraventional-nr-2182008/9267>.

After being restricted during the Covid-19 pandemic, freedom of assembly has also been affected by the consequences of Russia's aggression in Ukraine. Pursuant to the Parliament's decision⁴⁵ regarding the declaration of the state of emergency, the CES was entitled to ban assemblies without additional specifications regarding the conditions of application. During the anti-government protests in the autumn of 2022, the CES adopted decisions to regulate assemblies which are not in line with international standards. First, they excluded⁴⁶ LPA representatives and the organiser of an assembly from legal procedures related to stopping and dispersing an assembly, thus eliminating the checks and balances over the police provided in the Law on Assemblies. Secondly, the CES decisions provided that assemblies that block road traffic and/or access to public institutions are now prohibited during working days. On 16 October 2022, the police had already begun applying the new provisions and dispersed the anti-government protest in front of the Parliament and the Presidency, later arguing⁴⁷ that police had found explosive materials and other forbidden objects at the protest. Unlike the CES, the National Extraordinary Commission for Public Health (CNESP), had, starting in December 2021 following CSOs requests, included human rights experts for validation of anti-Covid-19 restrictions in order to avoid decisions contrary to human rights standards.

During the reporting period there were no reported cases of anyone being forced to participate in or being prohibited from participating in peaceful assemblies, or being sanctioned for doing so or intimidated into not doing so. However, during the anti-government protests in autumn, a media investigation revealed⁴⁸ a widespread practice of the organiser (Şor Party representative) paying protest participants. The issue was intensely publicly debated and raised the question of the legitimacy and even the legality of these assemblies.

Standard II. The state facilitates and protects peaceful assemblies.

Organisers of public assemblies are required to submit a notification to the relevant LPA at least five days in advance, which is free of charge and processed relatively quickly. Spontaneous assemblies and assemblies with less than fifty participants, as well as online assemblies, do not require notification. In isolated cases, in smaller localities, the notification procedure may be used as de facto authorisation, due to the lack of legal knowledge of both the public administration and the organisers.

⁴⁵ Parliament Decision 41 of 24.02.2022 regarding the declaration of the state of emergency
https://www.legis.md/cautare/getResults?doc_id=130079&lang=ro.

⁴⁶ Commission for Exceptional Situations, Disposition nr. 42 of 13.10.2022
https://gov.md/sites/default/files/document/attachments/dispozitie_cse_rm_nr.42_din_13.10.2022.pdf

⁴⁷ <https://politia.md/ro/content/comunicat-de-presa>.

⁴⁸ <https://www.zdg.md/investigatii/ancheta/video-protestatari-in-chirie-investigatie-zdg-sub-acoperire-ne-am-infiltrat-printre-protestatarii-lui-sor-si-va-aratam-din-interior-cum-sunt-platiti-oamenii-adusi-organizat-la-chisinau-si-cum-fun/>.

Everyone has the right to disseminate information about the holding of an assembly and to encourage the public to attend the assembly by any legal methods.⁴⁹ Almost every offline assembly uses online methods for organisation and dissemination purposes, and there have been no reported barriers regarding the use of the internet, virtual tools or other electronic means to organise and disseminate information about assemblies. There are no reported cases of limitations on internet access being used as a means to restrict peaceful assemblies either online or offline.

A change of conditions for conducting assemblies or their prohibition is the prerogative of the court of law based on clear evidence that the assembly will be unlawful, especially if it is violent or endangers public security. The legal deadline for court review of notifications of assemblies does not impede the conduct of assemblies.

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

LPAs and law enforcement are responsible for maintaining and restoring public order during assemblies, which they provide free of charge. The procedure for intervention of public authorities in assemblies is provided for in law only for the purposes of eliminating violence. Organisers and participants are accountable only for their own actions during the assembly, and generally not for those of others. Organisers could be found accountable for the actions of participants only if a court of law finds that the participants acted upon the organiser's instigation.

LPAs are also obliged to provide services requested by the organiser free of charge, which are usually, for instance, public lighting, cleaning, and access to a power source. The power itself is, however, provided for a cost.

Assemblies are allowed to use any graphical or acoustic means to express ideas and attitudes, sound amplification equipment (prohibited between 11:00 p.m. and 7:00 a.m.), as well as to erect temporary constructions and other objects specific to the assembly itself. Everyone has the right to disseminate information about the assembly through offline or online means, even before the submission of the notification to the authorities.

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

LPAs, the police and the carabinieri troops are the public institutions legally empowered to support peaceful assemblies. Their duties, obligations and procedures for intervention are clearly described by law⁵⁰ and their gradual involvement is provided for if an assembly should turn violent. Although the legal provisions are in

⁴⁹ Art. 13, Notifying the public, Law on Assemblies, 26/2008.

⁵⁰ Arts 21 and 22, Law on Assemblies, 26/2008 and Law on the Use of Physical Force, Special Means and Firearms, 218/2012, https://www.legis.md/cautare/getResults?doc_id=106326&lang=ro.

line with a human rights-based approach, such interventions are in practice sometimes at odds with the law, revealing weaknesses in the standard operating procedures of law enforcement. The excessive use of force by law enforcement or a failure to protect participants in peaceful assemblies can lead to disciplinary⁵¹ and penal sanctions.⁵² However, in 2022, on the occasion of the annual LGBTQ+ Pride March⁵³, police and carabinieri protected the March against counter demonstrators. Also, they protected participants against the local administration which was trying to obstruct the March. The administration of the Mayor of Chişinău, Ion Ceban,⁵⁴ redirected public transportation⁵⁵ on the route reserved for the March, and simulated repair work⁵⁶ on the March route in an attempt to prevent it from taking place.

Intervening police and carabinieri do not wear individual identification markings, making it almost impossible to identify individuals and hold them liable for any violations committed.

The use of surveillance devices to police or monitor assemblies is not regulated. State agencies use video monitoring of assemblies, but the regime for the use and preservation of the resulting footage is not clear. The use of surveillance devices other than video for policing and monitoring assemblies has not been reported.

Specific recommendations:

- LPAs and law enforcement should adopt non-violent and non-intrusive methods and use standard operating procedures when policing peaceful assemblies based on the observance of human rights, including for anti-government assemblies;
- The CES/Government should refrain from changing the legal framework of peaceful assemblies on the spur of the moment, which is a harmful practice and sets a dangerous precedent for a democracy based on the rule of law;
- Police and carabinieri should mark the uniforms of public order officers with visible individual identification numbers;
- LPAs should develop the skills of staff in charge of public assemblies in the fields of legislation, communication, dialogue, mediation and negotiation to facilitate effective assistance of assemblies and communication with both the organisers and law enforcement;

⁵¹ Art. 67, Violation of the Law on Assemblies, Contravention Code of the Republic of Moldova, 218/2008.

⁵² Art. 184, Violation of the Right to Peaceful Assemblies, Criminal Code of the Republic of Moldova, 985/2002.

⁵³ <https://gdm.md/ro/2022/06/19/marsul-pride-a-avut-loc/>; <https://www.zdg.md/stiri/stiri-sociale/video-comunitatea-lgbt-din-r-moldova-a-organizat-marsul-moldova-pride-participantii-au-marsaluit-pe-strazile-din-centrul-capitalei/>.

⁵⁴ <https://www.facebook.com/photo.php?fbid=1054609528476255&set=a.112512009352683&type=3>.

⁵⁵ The disposition of the Mayor of Chişinău 267/17.06.2022, https://www.chisinau.md/ro/upload/264238/attached_files/63454aed09da3.pdf

⁵⁶ <https://www.zdg.md/stiri/stiri-sociale/muncitorii-pusi-la-treaba-duminica-pe-unele-strazi-din-capitala-unde-era-programat-sa-se-desfasoare-marsul-comunitatii-lgbt-au-loc-lucrari-de-reparatie-foto/>.

- LPAs and law enforcement should apply legal provisions in a non-discriminatory manner and guarantee the safety and integrity of participants, journalists and peaceful observers, regardless of their social and political affiliation; and
- Police and carabinieri should train staff in order that they know how to apply the provisions of international standards in the field of online assemblies.

3.5 Right to Participation in Decision-Making

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

Legislation: **5.2 / 7**

Practice: **4.4 / 7**

The related legal framework allows everyone to participate in the decision-making process. Following the parliamentary elections in July 2021, the attitude of the Parliament and the Government towards cooperation with CSOs in the decision-making process improved. While the participation of CSOs in government decision-making is on a positive trajectory, there are still transparency issues concerning the decision-making process in the Parliament. The environment for CSO participation in decision-making is worse at the local level, except for in certain districts, where isolated progress has been registered.

Access to information is another deficient area, although this is being addressed by the MoJ which has initiated the development of a new draft law on access to information. Additionally, the Government submitted the National Report on the implementation of the provisions of the Council of Europe Convention on access to official documents that could lead to implementing measures to improve access to information.

The overall score of the area remained the same as in 2021, while the Practice score increased from 4.3 in 2021 to 4.4 in 2022. The Law score remains the same.

The main recommendations refer to amending the legal framework on access to public interest information and to developing a unified online platform which would include updated information on legal initiatives at all stages and reflect all changes from launch to adoption to improve transparency and participation in decision-making.

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

Public authorities and legal persons that manage and use public financial resources must consult draft normative and administrative acts that can have an impact on society.⁵⁷ The mechanism for public consultation in the decision-making process⁵⁸ provides clear steps and tools to engage citizens, CSOs and other interested parties.

⁵⁷ Art. 3, Law on Transparency in Decision-making, 239/2008, https://www.legis.md/cautare/getResults?doc_id=106638&lang=ro.

⁵⁸ Government Decision on the mechanism for public consultations with civil society in the decision-making process, 967/2016, https://www.legis.md/cautare/getResults?doc_id=119856&lang=ro.

The transparency of this process is based on the principles of information sharing and ensuring equal participation opportunities for all stakeholders.

Decisions may be submitted for elaboration and adoption without observing the stages provided for by law, but only as a matter of emergency, in the case of exceptional situations and in cases where documents are adopted by the Central Electoral Commission during an election period.⁵⁹ In such cases, the reasons for the urgency and lack of public consultation should be brought to the public's notice within a maximum of ten working days from the adoption of the decision.

Public authorities are obliged to take all necessary measures to ensure the participation of all stakeholders in decision-making.⁶⁰ Violators of transparency provisions⁶¹ can be subject to disciplinary and contravention sanctions.⁶² There are no legal remedies in cases of non-compliance with the rules of participation and transparency.

The transparency of the decision-making process in the Parliament is not subject to the Law on Transparency in Decision-making, and is conducted in accordance with the Parliament Regulation, which does not set out clear rules for public consultations.⁶³

The structure of the Parliament's website is outdated and does not sufficiently reflect information of public interest. Open data on the Parliament's activities is missing or cannot be made available, partly due to the design of the website.⁶⁴

At the local level, the situation has not changed and CSOs still complain about cases in which CSOs that are vocal and critical of the Government are excluded from participation processes or are completely ignored. At the central level, CSOs are able to be involved in the decision-making process without suffering repercussions.

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

The mechanism for public consultation with civil society clearly sets out stages, deadlines and conditions for conducting public consultations in the decision-making process. The mechanism includes methods of consultation such as requesting the opinions of CSOs, permanent or temporary working groups, public debates, public hearings, surveys and other methods that can either be used separately or in

⁵⁹ Art. 14, Law on Transparency in Decision-making, 239/2008.

⁶⁰ Art. 7(1), Law on Transparency in Decision-making, 239/2008.

⁶¹ Art. 16(1), Law on Transparency in Decision-making, 239/2008.

⁶² Art. 326(1), Violation of the Law on Local Public Administration, Contravention Code of the Republic of Moldova.

⁶³ Law for the Adoption of the Parliament Regulation, 797/1996,
https://www.legis.md/cautare/getResults?doc_id=111777&lang=ro.

⁶⁴ Promo-LEX Association, Annual report "Monitoring the activity of the Parliament for the 11th legislature", 2021-2022, 2022 <https://promolex.md/22895-raport-anual-monitorizarea-activitatii-parlamentului-de-legislatura-a-xi-a-pentru-perioada-anilor-2021-2022/?lang=ro>.

combination with each other. Any CSO is free to express its opinion and participate in the decision-making process on its own without being forced to become part of a consultative body.

Public authorities, except for the Parliament and LPAs, publish announcements, draft decisions and calls for consultation on the online participation platform which is free to access.⁶⁵ In the first ten months of 2022, there were 1,078 such items on the platform. For comparison, in 2021, there were 848 items and in 2020 there were 1,018 items.⁶⁶ The platform does not always provide the necessary documents, information or changes made in the proposed drafts (such as the 'divergences table' which includes suggestions provided by CSOs), nor do authorities offer public feedback on proposals provided by CSOs. The platform is not informative on the whole cycle of decision-making which means that one must also monitor the webpages of the Government and the Parliament which makes monitoring difficult, given the lack of systems for tracking the projects and any changes.

The State Chancellery found⁶⁷ that most of the time, the use of legal mechanisms fails to make a real contribution to improving the quality of public decisions, and it is necessary to carry out an analysis on how civil society and the administration interact to increase the quality of citizen participation in public life. At the same time, government institutions estimated that the most effective public consultation mechanisms were working sessions (online or offline) and working groups (including ad hoc groups) for public debates, requesting opinions of experts and of civil society organisations.

In 2021-2022,⁶⁸ the transparency of decision-making in the Parliament was largely not respected, and even seriously affected at certain stages. The main issues are the Parliament's failure to draft/publish documents related to citizens' consultation and the low rate of organised hearings and public debates. 33 per cent of draft laws did not respect the legal term for receiving citizens' recommendations before being voted on in the first reading. Only 21 per cent of drafts submitted by deputies within all parliamentary committees were subject to public hearings and debates.

At the local level, the situation is more complicated, with most local councils not having transparent decision-making processes and communication tools. There is, however, a positive experience evidenced by three 'Rayon [district] Participation Councils' which have established good connections with the related local councils,

⁶⁵ <http://www.particip.gov.md>.

⁶⁶ Participation Platform, State Chancellery, https://particip.gov.md/ro/statistics?year=2021&authority_id=.

⁶⁷ State Chancellery, Report on ensuring transparency in the decision-making process by the CPA authorities in 2021 https://cancelaria.gov.md/sites/default/files/document/attachments/raport_transparenta_2021_final.pdf.

⁶⁸ Promo-LEX Association, Annual report "Monitoring the activity of the Parliament for the 11th legislature, 2021-2022", 2022 <https://promolex.md/22895-raport-anual-monitorizarea-activitatii-parlamentului-de-legislatura-a-xi-a-pentru-perioada-anilor-2021-2022/?lang=ro>.

resulting in greater transparency and participation of local communities in decision-making. Target local councils have also started to publish agendas and draft decisions on their websites, have organised public consultations and endorsed proposals that come from CSOs.

The law does not regulate the involvement of CSOs in the implementation, monitoring and evaluation of public policies, but nevertheless an important segment of CSOs has always been actively involved in these stages.

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

The right to access to information is provided for by the Constitution.⁶⁹ The relevant legislation clearly stipulates timelines for each step of the decision-making process, including publication of the announcement, publication of the draft decision, consultation with stakeholders, and receipt and examination of recommendations. Public authorities are entitled to charge⁷⁰ for the provision of analytical, summary or original information, but the costs must not exceed the amounts incurred for copying, translating or sending the information.

Although public authorities regularly publish announcements and drafts on the online participation platform, these are not always accompanied by explanatory information.

Decisions issued by LPAs are published on the platform actelocale.gov.md.⁷¹ In the first 11 months of 2022, more than 205,000 local decisions were published on the platform, comparable to the number of documents published in previous years. However, some LPAs do not respect the principle of transparency by excessive anonymisation of published documents, late publication or non-publication. In order to solve the problem of excessive anonymisation, the State Chancellery approved an *"Instruction regarding the depersonalisation of administrative documents in the State Register of Local Documents,"*⁷² which is intended to help officials understand how and when to anonymise data from documents.

Public authorities have an obligation to respond to requests for 'official information' within a maximum of fifteen working days.⁷³ In practice, however, access to public

⁶⁹ Art. 34, Right to information, Constitution of the Republic of Moldova.

⁷⁰ Art. 20, Law on Access to Information, 982/2000, https://www.legis.md/cautare/getResults?doc_id=108552&lang=ro.

⁷¹ Government Decision 672/2017 for the approval of regulations regarding the State Register of Local Acts, https://www.legis.md/cautare/getResults?doc_id=128145&lang=ro.

⁷² State Chancellery Order No. 61/2022 regarding the approval of the Instruction regarding the depersonalization of administrative documents in the State Register of Local Documents, https://cancelaria.gov.md/sites/default/files/document/attachments/instructiunea_01.11.2022.pdf?fbclid=IwAR3PmjiHJg9VfWfsQ9BL4QNcjaAIUfUJBfjUZlaL5-2OpzeRJ0k910-qbJA.

⁷³ Art. 16(1), Law on Access to Information, 982/2000.

information has been deficient for many years.⁷⁴ Public authorities often provide overly-formal, incomplete, delayed or evasive responses, interpret requests as petitions and manage them in a longer timeline and under different regulations, or request excessive payments⁷⁵ for the services to be provided. Besides hindering effective participation in decision-making processes, restricting access to information significantly affects investigative journalism. The legal mechanisms for defending the right to access to information include the administrative court and the contravention sanction for violating the legislation on access to information.⁷⁶ In 2022, the Contravention Code was supplemented⁷⁷ with sanctions for the refusal of a public authority or institution to receive, register, examine or ignore a request for access to information on the grounds that it was submitted in electronic form, after such cases had been recorded previously.

In 2022, Moldova's Access to Information Index score increased by 1 point from 46/100 (in 2021)⁷⁸ to 47/100. Deficiencies start from the legislative framework (22 points out of 40), but the main concern is the performance of public authorities in practice. Proactive transparency decreased from 12 to 11 points (out of a maximum of 30), the main problem being the availability of data related to financial, personal and organisational aspects. Access to the request improved from 12 to 14 points (out of a maximum of 30),⁷⁹ but the relevant authorities' practice of prioritizing the protection of personal data and the confidentiality of information over the public interest in transparency remains the main concern.

According to some amendments made in 2022, data held by the PSA public registers⁸⁰ (on population, business, real estate, etc.) were to be released free of charge to journalists. In practice, however, the situation has not improved⁸¹ because much information is still provided only for a fee, and the provision of information within

⁷⁴ Freedom House, 'Why access to information is still a problem in the Republic of Moldova,' 2021, https://freedomhouse.org/sites/default/files/2020-03/Gotisan_Ionel_Brief_FINAL_RO.pdf; Independent Journalism Centre (CJI), <https://cji.md/apelul-ong-urilor-de-media-cerem-transparenta-acces-la-informatia-de-interes-public-si-reforme-reale-care-ar-facilita-dezvoltarea-mass-mediiei/>; CPR Moldova, 'Why and how the law on access to information needs to be changed,' 2019, <https://cpr.md/2019/11/26/de-ce-si-cum-trebuie-modificata-legea-accesului-la-informatii/>.

⁷⁵ <https://cji.md/ong-urile-de-media-condamna-tentativele-primariei-mun-balti-de-a-ingradi-accesul-la-informatie-a-presei-si-cer-anularea-tarifelor-pentru-furnizarea-datelor-de-interes-public/>.

⁷⁶ Contravention Code, article 71 Violation of the legislation on access to information and on petitioning.

⁷⁷ Contravention Code, article 313⁷ Excess of power in the case of documents in electronic format.

⁷⁸ Freedom House Moldova, „ Index of Access to Information: measuring the transparency of public institutions in the Republic of Moldova”, 2021, https://freedomhouse.org/sites/default/files/2021-11/fh-Moldova_Access-to-Info-Report_Rom-revised.pdf.

⁷⁹ Freedom House Moldova, „ Index of Access to Information: measuring the transparency of public institutions in the Republic of Moldova 2022, https://freedomhouse.org/sites/default/files/2022-11/fh-Moldova_Access-to-Info-Report-2022_Rom-v2.pdf.

⁸⁰ Government Decision 569/2022 for the amendment of Government Decision no. 966/2020 regarding the services provided by the Public Services Agency https://www.legis.md/cautare/getResults?doc_id=132513&lang=ro.

⁸¹ <https://www.zdg.md/blog/editoriale/editorial-accesul-jurnalistilor-la-bazele-de-date-cu-informatii-de-interes-public-intre-promisiuni-si-realitate-dupa-un-an-cu-o-guvernare-care-a-promis-transparenta-maxima/>; <https://media-azi.md/autoritatile-nu-fac-decat-sa-mimeze-deschiderea-fata-de-presa/>.

five days remains at the discretion and interpretation of PSA officials, who can refuse to grant it at any time on the grounds of personal data protection. At the local level, several abuses have been reported when LPAs have requested payments for information that, according to the law, must be provided free of charge. At the Parliament, about half of the responses to requests for access to information were provided beyond the legal deadline, and about 20 per cent were of a general or incomplete nature. In 2022, the MoJ initiated the development of a new draft law on access to information, after the Government had initially approved another draft law⁸² regarding the amendment of the Law on Access to Information.⁸³

In January 2022, the State Chancellery published the National Report on the implementation of the provisions of the Council of Europe Convention on access to official documents (which entered into force on 1 December 2020),⁸⁴ based on which measures to improve access to information would be applied.

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

CSOs cannot materially support, nor can they provide free services to political parties or socio-political organisations, except for CSOs founded by political parties, which can provide capacity-building services free of charge. CSOs are allowed to provide paid services to electoral candidates during an election campaign (as are commercial organisations). This right was confirmed only after the Constitutional Court ruled against the initial wording of the law that included a prohibition in this regard.⁸⁵

Lobbying activities are not legally regulated in the Republic of Moldova. Participation in the design, monitoring, or implementation of public policies is not prohibited by law in any way, and CSOs have no obligation to register or comply with other rules in order to engage in lobbying and advocacy.

Specific recommendations:

- The Parliament should amend the legal framework on access to public interest information based on the Council of Europe Convention, to ensure proactive publishing of information (not just on demand) and good internal management to guarantee correct implementation of the legislation;

⁸² Draft law on amendments to the Law on access to information

https://gov.md/sites/default/files/document/attachments/subiect-03-nu-482-mj-2021_0.pdf.

⁸³ <https://media-azi.md/recentele-propuneri-ale-guvernului-si-perspectiva-dreptului-de-acces-la-informatie/?fbclid=IwAR3Qwi5aJsk2vqWO6ulkra9sZwuQrrIGsvhEoLZdwJIOIj4LlrtMAKIL1oU>.

⁸⁴ Council of Europe, <https://www.coe.int/ro/web/chisinau/-/convention-on-access-to-official-documents-enters-into-force-in-the-republic-of-moldova>; <https://www.coe.int/en/web/conventions/full-list?module=treaty-detail&treaty-num=205>; State Chancellery, "The National Report on the implementation of the provisions of the Council of Europe Convention on access to official documents", December 2021, https://cancelaria.gov.md/sites/default/files/raport_implementare_conventie_2022.pdf.

⁸⁵ Constitutional Court, Decision 24, 8 October 2020,

<https://www.constcourt.md/ccdocview.php?tip=hotariri&docid=745&l=ro>.

- The Parliament should develop a practical mechanism for holding senior responsible persons accountable for breaking the requirements of transparency and access to information;
- The EGA/public institutions should improve transparency and participation in decision-making by developing a unified online platform which would include updated information on legal initiatives at all stages and reflect all changes from launch to adoption;
- The Parliament should optimise the system of publishing information on its official website (including adding the option to make comments and to monitor the legal opinions issued by parliamentary committees);
- The Parliament should regulate the transparency of the parliamentary decision-making process by setting certain stages, terms and ways of consulting that are similar to those provided for in the Law on Decision-Making Transparency; and
- LPAs should increase transparency in decision-making by developing modules on their websites similar to those used by the government (particip.gov.md) and establish local structures for dialogue with CSOs and participatory structures using existing good practices, including District Participation Councils based on existing functional models.

3.6 Freedom of Expression

Overall score per area: **5.0 / 7**

Legislation: **5.3 / 7**

Practice: **4.6 / 7**

Everyone is free to express opinions, a common practice in public in both offline and online spaces. Still, most media institutions are subject to control by businesses and political groups. Although it is illegal, hate speech is a widespread phenomenon which is rarely sanctioned. The situation in the area of freedom of expression has remained largely the same as in the previous reporting period, with an improvement determined by the adoption by the Parliament of the Law on incrimination of crimes motivated by prejudice. The Law includes definitions of grounds for prejudice and the review of basic offences and aggravating circumstances related to acts of hatred and prejudice. Smear campaigns led by illiberal politicians against critical and vocal CSOs and journalists have become rarer. Media CSOs reported the use of the defamation sanction as a weapon against media representatives. There was no progress made in this reporting period regarding the draft amendments recommended for the legislation on freedom of expression. The practice by the SIS of blocking webpages labelled as promoting 'fake news' continued during the state of emergency following the Russian invasion of Ukraine.

The overall score and the scores for Law and Practice in the area of Freedom of Expression remained the same as in 2021.

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

The Constitution of the Republic of Moldova guarantees⁸⁶ freedom of opinion and expression by word, image or any other possible means. Any person (natural or legal) and groups (through the right of each individual) have the right to freedom of expression, including the freedom to seek, receive and communicate facts and ideas.⁸⁷ There is no legal barrier to the free use of any media and no one may prohibit or prevent the media from disseminating information of public interest in accordance with the law.⁸⁸

In practice, most important media channels are under the control of political and/or business elites.⁸⁹ Free and impartial media is relatively rare. The politically unaffiliated press has been relying on its own funds or occasional grants from donors.⁹⁰ Most media sources are privately owned (71 per cent), about 12 per cent are non-commercial and 9 per cent public.⁹¹ The largest share of non-commercial organisations (23 per cent) is registered among news portals.

In 2022, the Republic of Moldova registered a jump of over 5 points and 49 positions in the world ranking of the press freedom index,⁹² moving from the ‘problematic’ to the ‘satisfactory’ category. In 2022, there were no significant changes to explain this jump, and the difference compared to the 2021 ranking is due to *“a government change and the hope it has brought for improvement in the situation for journalists even if oligarchs still own or control the media.”*⁹³ There is no evidence of systemic hindering by the state of persons expressing ideas and opinions contrary to official policy, but politicians often sue the authors of statements that scrutinise their activity, which means a lot of wasted time and resources for media institutions.⁹⁴

The changes made by the Parliament in December 2021⁹⁵ in the media sphere (the new composition of the national regulator, the Audiovisual Council, and the state TV and

⁸⁶ Art. 32, Freedom of opinion and expression, Constitution of the Republic of Moldova, 1/1994, https://www.legis.md/cautare/getResults?doc_id=111918&lang=ro.

⁸⁷ Art. 3(1), Law on Freedom of Expression, 64/2010, https://www.legis.md/cautare/getResults?doc_id=83916&lang=ro.

⁸⁸ Art. 4(1), Law on Freedom of Expression, 64/2010.

⁸⁹ <https://www.zdg.md/investigatii/ancheta/video-stapanii-televiziunilor-ce-nu-s-a-schibat-la-trei-ani-dupa-ce-lahotniuc-si-sor-au-plecat-din-r-moldova/>.

⁹⁰ Independent Journalism Centre, The mass media market of the Republic of Moldova 2022 https://cji.md/wp-content/uploads/2021/05/Studiu-CJI_Piata-mass-media-din-Republica-Moldova.pdf.

⁹¹ Magenta Consulting, The Study of the Needs of Mass-Media Institutions from the Republic of Moldova, 2022 https://cji.md/wp-content/uploads/2021/09/Studiul-de-necesitati_2022-.pdf.

⁹² Methodology used for compiling the World Press Freedom Index <https://rsf.org/en/index-methodologie-2022>.

⁹³ RSF's 2022 World Press Freedom Index : a new era of polarisation. https://rsf.org/en/rsf-s-2022-world-press-freedom-index-new-era-polarisation?year=2022&data_type=general.

⁹⁴ Iaroslav Martin vs. Publicația Periodică Ziarul de Gardă (registered on 31.01.2022), https://jc.instante.justice.md/ro/pigd_integration/pdf/generate/pending/2-22013377-12-2-31012022-1/88DDD2F6-2AA7-DD11-9299-001E0B8014EB; Bogdan Țirdea vs. Media Alternativa (registered on 24.05.2022), https://jc.instante.justice.md/ro/pigd_integration/pdf/generate/pending/2-22072361-12-2-24052022-1/88DDD2F6-2AA7-DD11-9299-001E0B8014EB.

⁹⁵ Law for the amendment of the Code of audiovisual media services of the Republic of Moldova 158/2021, https://www.legis.md/cautare/getResults?doc_id=128490&lang=ro.

Radio broadcaster (TRM) being taken under parliamentary control) were criticised⁹⁶ as affecting their independence and making them dependent on political will. The amendments reintroduced into the law mechanisms of undue political influence over editorial policy, similar⁹⁷ to those for which the Republic of Moldova was previously convicted at the European Court of Human Rights (ECHR) for violating freedom of expression.⁹⁸ The Committee of Ministers of the Council of Europe will continue to monitor the implementation of the decision on the mentioned case in the supervision of the execution of the ECHR's judgment under the enhanced procedure,⁹⁹ and will examine it in detail in 2023.¹⁰⁰

Deliberate actions aimed at inciting national, ethnic, racial or religious strife or division constitute a criminal offence.¹⁰¹ Hate speech in various forms is forbidden under different legal provisions.¹⁰² Hate speech is not usually sanctioned due to the ambiguous nature of the related legislation and a failure on the part of the competent authorities to understand the phenomenon. In April 2022, the Parliament adopted in its final reading the Law on incrimination of crimes motivated by prejudice¹⁰³ (formerly known as draft no. 301). The Law is a set of legislative amendments to the Criminal Code and the Code of Contraventions, which include definitions of grounds for prejudice, the review of basic offences and aggravating circumstances related to acts of hatred and prejudice. The Law introduces the misdemeanour of Instigation to discrimination and the criminal offences of Incitement to violent actions on grounds of prejudice and Propaganda of genocide or crimes against humanity. The Law includes a long-debated exception that provides exemption from liability for the misdemeanour of Instigation to discrimination¹⁰⁴ based on prejudice.

In response to increased security threats following Russia's invasion of Ukraine, in June 2022 the Parliament adopted a set of amendments to the Audiovisual Services

⁹⁶ Centre for Analysis and Prevention of Corruption, Position Note, <https://www.capc.md/wp-content/uploads/2021/11/Scrisoare-Nota-de-pozitie-CAPC-modificarea-Codului-serviciilor-media-audiovizual-1.pdf>.

⁹⁷ Independent Journalism Centre, „The arrears of the Republic of Moldova in the execution of ECtHR Decisions in cases regarding freedom of expression”, 2021 <https://cji.md/studiu-cji-restantele-republicii-moldova-la-executarea-hotararilor-ctedo-in-cauze-privind-libertatea-de-exprimare/>.

⁹⁸ Case *Manole and others vs. Republic of Moldova* <https://hudoc.echr.coe.int/fre#%7B%22itemid%22:%5B%22001-94075%22%5D%7D>.

⁹⁹ <https://hudoc.exec.coe.int/ENG#f%22tabview%22:%5B%22related%22%22EXECIdentifier%22:%5B%22004-6752%22%22%5D%7D>

¹⁰⁰ Cases listed for detailed examination at future Human Rights meetings by decisions of the Committee, <https://www.coe.int/en/web/cm/-/1459th-meeting-dh-7-9-march-2023>

¹⁰¹ Art. 346, Criminal Code of the Republic of Moldova.

¹⁰² Art. 32(3) of the Constitution of the Republic of Moldova; Art. 2, Law on Freedom of Expression, 64/2010; Art. 2, Law on Equality, 121/2012; Art. 2 of the Law on Gender Equality, 5/2006; Art. 54, Violation of the legislation on religious groups; Art. 69, Insults and Art. 354, Disorderly conduct, Contravention Code.

¹⁰³ Law 111/2022 for the modification of some normative acts, https://www.legis.md/cautare/getResults?doc_id=131558&lang=ro.

¹⁰⁴ Contravention Code Article 70¹. Incitement to discrimination (2) “Actions taken as part of a speech or public debate with a reasonable and objective justification regarding issues of religion, education, objective scientific research, including in the context of artistic events or actions, are not considered incitement to actions of discrimination based on prejudice.”

Code¹⁰⁵ that *'forbid the broadcast of audiovisual programmes that incite hatred, disinformation, propaganda of military aggression, extremist content, terrorist content or that poses a threat to national security.'* It also introduced the notion of disinformation, which involves the dissemination of false news created with the intention of causing harm.

Complementarily, the Council of Europe has developed a methodology for assessing the harm implied by the notion of misinformation. The amendments in the first reading in March 2022,¹⁰⁶ containing several amendments concerning freedom of expression, the powers of the SIS, and the Criminal and Contravention Code, were harshly criticised by media institutions and specialised CSOs¹⁰⁷ because they would have significantly affected freedom of expression and created premises for abuses to the right. In consequence, the Parliament excluded them from the second reading. Among other things, the draft proposed the definition of “false information” without explaining clearly enough the criteria for qualifying information as false; complementarily, it proposed that the SIS become the authority that could examine and qualify information as false and, consequently, allowed for a wide margin for the application of arbitrary decisions.

The SIS continued to block webpages with fake news as it did during the Covid-19 pandemic, without the notions of ‘fake news’ or ‘false news’ being defined in legislation. The measure seems to have little efficiency, as there are situations when blocked pages are re-launched shortly after with another IP address. The procedure for identifying fake content is also unclear, and there is no mechanism for challenging or reviewing blocking provisions. No person was sanctioned for promoting the alleged fake news.

Other changes from 2022 with an impact on freedom of expression included the creation of the Coordinating Council to ensure informational security¹⁰⁸ for monitoring at the cyber, operational, media, and civic-private levels, which includes CSOs, alongside public institutions and private actors. The members of the Council will, among other things, assess compliance with the rights to freedom of information and the degree of transparency of the media regarding access to information of public interest, propose mechanisms for the involvement of civil society in the processes of defining, elaborating, monitoring and evaluating information security policies and make proposals for building an independent online media.

¹⁰⁵ Law for the amendment of the Audiovisual Media Services Code 143/2022, https://www.legis.md/cautare/getResults?doc_id=131800&lang=ro.

¹⁰⁶ Draft Law 123/2022, <https://www.parlament.md/ProcesulLegislativ/Proiectedeactelegislative/tabid/61/LegislativId/5941/language/ro-RO/Default.aspx>.

¹⁰⁷ <https://www.privesc.eu/arhiva/98934/Audieri-publice-organizate-de-Comisia-cultura--educatie--cercetare--tineret--sport-si-mass-media--privind-proiectul-de-lege-pentru-modificarea-unor-ac>.

¹⁰⁸ Government Decision 467/2022, https://www.legis.md/cautare/getResults?doc_id=132064&lang=ro

Journalists continue to be the target of attacks¹⁰⁹ or accusations from political actors, and intimidation, verbal and physical aggression, including from officials,¹¹⁰ especially those from ATU Gagauzia.

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

Individuals and CSOs use online resources and other means of communication to publish content and express opinions that are not subject to regulations applicable to media. Censorship, as well as the creation of public authorities for the control of information to be disseminated by the media, is prohibited.¹¹¹ The law also protects the confidentiality of journalists' sources of information.¹¹² There were no reported cases of media organisations being searched or raided. During the first months of the state of emergency, during the fight against "fake news", the SIS blocked several news portals for promoting information that incites hatred and war.¹¹³

The law also protects whistle-blowers,¹¹⁴ but in the few known cases of whistleblowing, the legislative protections were not effective.

The deliberate dissemination of defamatory and deceitful information (defamation) is an administrative offence,¹¹⁵ usually applied by under-qualified police officers. Media CSOs reported at least three times in the past two years¹¹⁶ the use of the defamation sanction, which they consider a serious and disproportionate measure used as a weapon against media representatives. This was reiterated¹¹⁷ after the administrator

¹⁰⁹ <https://media-azi.md/caricatura-media-azi-munca-sisifica-a-jurnalistilor-sau-despre-sensul-filmarilor-fara-sens/>

¹¹⁰ <https://nokta.md/potyanduli-volosy-i-prigrozilis-pobrit-na-mitinge-v-vulkaneshtah-k-zhurnalistu-nokta-primenili-fizicheskuiu-silu/>, https://nokta.md/raschlenju-etogo-klouna-sotrudnik-primarii-komrata-ugrozhaet-zhurnalistu-portala-nokta.md/?fbclid=IwAR3rxNXdrxecZEVnC7K9tG6vx6ickMKwKz-9IKVG7_PZWQ1YwlnumtyAZC8, <https://cji.md/ong-urile-de-media-condamna-atitudinea-improprie-fata-de-presa-a-ministrei-sanatatii-ala-nemerenco/>, <https://www.facebook.com/Ania.Dmitrieva/posts/pfbid02MenpaPotMgVKa95gkt2RZtnpsCs2kYoXn9aFEVzYFRY1D> <https://nokta.md/krestovoe-bratstvo-iz-kirsovo-prizvalo-predat-zhurnalista-nokta-mihaila-sirkeli-anafeme/>

¹¹¹ Art. 34(5), Constitution of the Republic of Moldova; Art. 1(2), Law on Press, No 243/1994; Art. 5, Law on Freedom of Expression, 64/2010.

¹¹² Art. 13, Law on Freedom of Expression, No 64/2010; Art. 18, Non-disclosure of information source; Law on Press 243/1994, https://www.legis.md/cautare/getResults?doc_id=109428&lang=ro.

¹¹³ <https://sis.md/ro/content/alte-dou%C4%83-site-uri-promotoare-de-informa%C8%9Bii-ce-incit%C4%83-la-ur%C4%83-%C8%99i-r%C4%83zoi-urmeaz%C4%83-fi-blocate>; <https://sis.md/ro/content/un-site-care-promoveaz%C4%83-informa%C8%9Bii-false-ce-incit%C4%83-la-ur%C4%83-%C8%99i-r%C4%83zboi-blocat>; <https://sis.md/ro/content/update-sursele-informa%C8%9Bionale-care-distribuie-%C8%99tiri-false-informa%C8%9Bii-care-instig%C4%83-la-ur%C4%83>; <https://sis.md/ro/content/un-site-care-public%C4%83-informa%C5%A3ii-false-%C3%AEEn-contextul-st%C4%83rii-de-urgen%C8%9B%C4%83-va-fi-blocat>.

¹¹⁴ Law on Whistle-blowers, 122/2018, https://www.legis.md/cautare/getResults?doc_id=105486&lang=ro.

¹¹⁵ Art. 70, Defamation, Contravention Code.

¹¹⁶ <https://cji.md/campania-cji-privind-necesitatea-modificarii-articolului-din-codul-contraventional-ce-vizeaza-calomnia/>.

¹¹⁷ <https://cji.md/ong-urile-de-media-isi-exprima-ingrijorarea-in-legatura-cu-hotararea-judecatoriei-chisinau-de-sanctionare-a-administratorului-postului-de-televiziune-jurnal-tv/>.

of the Jurnal TV station, Val Butnaru, was penalised for defamation with a six-month ban from holding positions of responsibility.¹¹⁸

In 2020, CSO and media experts developed a draft amending the laws on freedom of expression,¹¹⁹ which aimed to facilitate access to information of public interest,¹²⁰ journalists' access to personal data of public interest, and introduced new terminology, eliminating defamation from the Contravention Code and shifting the power to review violations in this area from the police to the Prosecutor General's Office. The proposed amendments were not followed by any legislative initiative, however.

Specific recommendations:

- Parliament should amend the legislation on freedom of expression based on the draft amendments prepared by CSOs and media experts;¹²¹
- Specialised state institutions should develop practical tools and mechanisms to prevent and sanction hate speech, including hate speech originating from public officials;
- The Audiovisual Council should apply sanctions to media outlets that violate ethical standards and legislation relevant to journalism; and
- The Government should adopt a functional mechanism implementing legislation to protect whistle-blowers.

¹¹⁸ <https://media-azi.md/judecatoria-chisinau-i-a-interzis-proprietarului-jurnal-tv-val-butnaru-sa-ocupe-functii-de-conducere-la-tv-si-radio-pentru-jumatate-de-an/>.

¹¹⁹

http://api.md/upload/video_sf/Proiect_de_lege_modificare_completare_Legea_accesul_la_informatie_Legea_libertatea_exprimare_Legea_date_cu_caracter_personal_si_altele_final.pdf.

¹²⁰ CPR, 'Why and how should the Law on access to information should be changed?', 2019,

<https://cpr.md/2019/11/26/de-ce-si-cum-trebuie-modificata-legea-accesului-la-informatii?fbclid=IwAR1DpiCAFdIlXIKrVVuL85Mze2wtHTLbZBH1e6VJZJc6wHtIAFc0ku09qYM>.

¹²¹ Association of Independent Press,

http://api.md/upload/video_sf/Proiect_de_lege_modificare_completare_Legea_accesul_la_informatie_Legea_libertatea_exprimare_Legea_date_cu_caracter_personal_si_altele_final.pdf.

3.7 Right to Privacy

Overall score per area: **4.4 / 7**

Legislation: **5.3 / 7**

Practice: **3.4 / 7**

The right to privacy, family and private life, home and correspondence is protected for everyone and cannot be subject to arbitrary or illegal interference. Personal data is protected under a dedicated law and the state provides protection for personal data held by legal persons through the National Centre for Personal Data Protection (NCPDP) which carries out monitoring and control functions. Starting in 2022, personal data operators (including CSOs) were no longer obliged to notify the Centre.

The situation in the area of right to privacy has remained the same as in the previous reporting period. The legal framework provides for the protection of privacy and personal data, but this protection is not always offered in practice. The ECHR is examining the complaints under Article 8 of the European Convention on Human Rights (Right to respect for private and family life) of the victims in the case of unlawful interception of communications and video recording in the home of some CSO activists and journalists.

The overall score and the scores for Law and Practice in the area of Right to Privacy remain the same as in 2021.

The main recommendations in this area address the Prosecutor General's Office which should guarantee transparency of information about the use of special means of interception and surveillance, as well as to investigate unlawful interference in private lives via electronic communications, data storage and surveillance systems, etc.

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

The right to privacy, family and private life, home and correspondence is protected by the Constitution of the Republic of Moldova¹²² for everyone and cannot be subject to arbitrary or illegal interference, in either a physical or a virtual environment regardless of the author.¹²³

Personal data is protected under a dedicated law,¹²⁴ which regulates the processing, storing and use of personal data. CSOs are entitled to handle personal data and are subject to the same obligations and requirements as other legal persons. Monitoring and control of compliance with the relevant legislation is the duty of the NCPDP.¹²⁵

¹²² Constitution of the Republic of Moldova, Art. 28, Intimate, family and private life; Art. 29, Inviolability of the home; Art. 30, The privacy of correspondence.

¹²³ Criminal Code of the Republic of Moldova, Art. 177, Violation of Privacy; Art. 178, Violation of the Right to Privacy of Correspondence; Art. 179, Inviolability of the Domicile; Art. 193, Trespassing; Art. 197, Deliberate Destruction or Damaging of Goods; Art. 2601, Illegal Interception of an Information Data Transfer; Law on freedom of expression 64/2010 Art. 10 The right to respect for private and family life.

¹²⁴ Law on Personal Data Protection, 133/2011, https://www.legis.md/cautare/getResults?doc_id=10607&lang=ro.

¹²⁵ National Centre for Personal Data Protection (CNPDPC), <https://datepersonale.md/en/>.

Violations of privacy entail sanctions for contravention.¹²⁶ Starting on 10 January 2022, the obligation of personal data operators (including CSOs) to notify the NCPDP was removed¹²⁷ and the Register of Personal Data Operators was liquidated.

In the public case¹²⁸ of unlawful interception of communications and video recording in the homes of 52 politicians, CSO activists and journalists,¹²⁹ revealed by a media investigation in 2019,¹³⁰ five ex-police officers are accused in court of violation of personal life and violation of the right to secrecy of correspondence.¹³¹ The case is also under the examination of the ECHR,¹³² to which some of the victims complained under Article 8 (Right to respect for private and family life) of the Convention. It is not clear to what extent the legal mechanisms to protect against illegal or disproportionate collection, processing and storage of personal information work in practice, except in cases brought to public attention by media investigations.

In November 2022, information obtained after the hacking of the private correspondence¹³³ of several high-ranking Moldovan officials, including the President and several ministers and officials, was leaked online. This case reconfirms the precariousness of private correspondence and the shortcomings of the relevant institutions to protect the private information of the population.

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

The state provides protection for private data held by legal persons. Personal data stored and processed by CSOs is subject to specific legal procedures.¹³⁴ Reports submitted by CSOs are compliant with personal data protection legislation and they do not affect the privacy of members, donors, board members and employees, or the confidentiality of their personal assets.

Searches of offices or homes are possible only following the issuing of a court warrant, or following an urgent exceptional procedure, but only on grounds prescribed by the penal procedure.¹³⁵ In 2022, there were no reported cases of the authorities breaking into CSOs' offices or accessing CSOs' documents.

¹²⁶ Contravention Code Art. 74¹, Personal data processing with violation of the law on personal data protection; Art.74², The refusal to provide information or deny access to the staff of the National Centre for Personal Data Protection; Art. 74³, Failure to implement the decisions of the National Centre for Personal Data Protection.

¹²⁷ Law 175/2021, https://www.legis.md/cautare/getResults?doc_id=128924&lang=ro; <https://datepersonale.md/in-atiinta-operatorilor-de-date-cu-caracter-personal/>.

¹²⁸ The so-called case of „illegal wiretapping of opposition representatives, civic activists and journalists”.

¹²⁹ Prosecutor General of the Republic of Moldova, <http://www.procuratura.md/md/news/1211/1/8269/>.

¹³⁰ <https://www.rise.md/articol/ministerul-interceptarilor/>.

¹³¹ <http://www.procuratura.md/md/news/1211/1/8727/>.

¹³² <https://hudoc.echr.coe.int/eng?i=001-209136>.

¹³³ <https://moldova-leaks.com/>.

¹³⁴ Law on Personal Data Protection, No 133/2011.

¹³⁵ Section 4, Searching and picking up objects and documents, Criminal Procedure Code, 122/2003, https://www.legis.md/cautare/getResults?doc_id=126190&lang=ro#.

Surveillance is legally possible as part of a criminal investigation, but only upon authorisation of the investigative judge at the prosecutor's request.¹³⁶ Criminal procedure¹³⁷ provides guarantees against surveillance-related abuses, including for CSOs or associated individuals. There were no recorded cases of unauthorised interference in the confidentiality of communication of CSOs or associated persons in 2022.

In November 2022, the Parliament registered three draft laws aimed at the adoption of a new version of the Law on the Intelligence and Security Service,¹³⁸ changes regarding the status of SIS officers,¹³⁹ as well as the regulation of information and counter-informative activity.¹⁴⁰ The drafts contain some provisions that could negatively affect private and family life as a result of the application of information and counter-information measures.

Specific recommendations:

- The Prosecutor General's Office should guarantee transparency of information about the use of special means of interception and surveillance investigations;
- The Prosecutor General's Office should ensure that investigating judges inform post-factum wiretapped persons about every single case of interception; and
- The competent bodies should investigate the unlawful interference with private life in electronic communications, data storage and surveillance systems, etc. and should apply sanctions to persons who disclose private information.

¹³⁶ Chapter III, Criminal Procedure Code, Law on Special Investigation Activity, No 59/2012, https://www.legis.md/cautare/getResults?doc_id=110235&lang=ro.

¹³⁷ Criminal Procedure Code, Art. 7, Legality of Criminal Procedures; Art. 8, Presumption of Innocence; Art. 9, Equal Protection of the Law; Art. 10, Observance of Human Rights, Freedoms, and Dignity; Art. 11, Inviolability of a Person; Art. 12, Inviolability of a Domicile; Art. 13, Inviolability of Property; Art. 14, Privacy of Correspondence; Art. 15, Inviolability of Private Life.

¹³⁸ Draft law on the Intelligence and Security Service of the Republic of Moldova 430/2022, <https://www.parlament.md/ProcesullLegislativ/Proiectedeactelegislative/tabid/61/LegislativId/6252/language/ro-RO/Default.aspx>.

¹³⁹ Draft law 421/2022 to amend Law no. 170/2007 regarding the status of the information and security officer <https://www.parlament.md/ProcesullLegislativ/Proiectedeactelegislative/tabid/61/LegislativId/6253/language/ro-RO/Default.aspx>.

¹⁴⁰ Draft Law 422/2022 on counter-informative activity and external informative activity, <https://www.parlament.md/ProcesullLegislativ/Proiectedeactelegislative/tabid/61/LegislativId/6254/language/ro-RO/Default.aspx>.

3.8 State Duty to Protect

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

Legislation: **5.0 / 7**

Practice: **4.2 / 7**

The state has the obligation to protect its citizens and also respects, protects and ensures freedom of association. CSOs and associated individuals have access to effective complaint and appeal mechanisms in court. Public institutions are not regarded as institutions that could provide effective protection. There is no evidence that responsible bodies investigate illegal interference with private life.

The OPFML published the Risk Assessment of Money Laundering and Terrorist Financing and assessed that there are no indications of terrorist financing associated with the non-profit sector and the risk for non-profit organisations to be potentially used to finance terrorism is very low. Nevertheless, it provides a list of recommendations for the whole civil society sector that would bring unnecessary and burdensome requirements for CSOs.

The overall score in this area remained the same as in 2021, while the Practice score increased from 4.1 in 2021 to 4.2 in 2022 due to several minor improvements. These include the proactive role that law enforcement has taken in protecting peaceful assemblies (particularly the LGBTQ+ Pride March from hostile third-party groups and attempts by the Mayor of Chişinău to undermine the Pride March), the court case brought against five former police officers accused of violating the right to private life, and the national body responsible for decision-making regarding the anti-Covid-19-pandemic restrictions including three human rights experts to ensure the compliance of its decisions with human rights standards. The score for Law remained the same as in 2021.

The main recommendation, addressed to the SIS and the OPFML, is that CSOs should be proactively engaged in the process of identifying measures to address the issues concerning assessment of the vulnerabilities of CSOs to money laundering and terrorism financing.

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

The Constitution sets out the obligation of the state to protect its citizens.¹⁴¹ The life, integrity, health, freedom, property and other legitimate rights of the citizens and community are protected by law,¹⁴² with both positive and negative obligations placed on state institutions. The state respects, protects and ensures freedom of association.¹⁴³ CSOs are free to decide their internal structure, objectives and activities¹⁴⁴ and they cannot be obliged to accept new members.¹⁴⁵ The state may intervene in the activities of CSOs only if it is a necessary measure in a democratic society to ensure national

¹⁴¹ Art. 18, Protection of the Citizens of the Republic of Moldova, Constitution of the Republic of Moldova.

¹⁴² Art. 18, Law on Police, 320/2012; Art. 22, Law on General Inspectorate of Carabineers, 219/2018; Art. 1, Law on the Prosecutor's Office, 3/2016.

¹⁴³ Art. 5(1), Law on Non-Commercial Organisations, 86/2020.

¹⁴⁴ Art. 3(2), Law on Non-Commercial Organisations, 86/2020.

¹⁴⁵ Art. 7(4), Law on Non-Commercial Organisations, 86/2020.

security, public safety, law enforcement or the prevention of crime, or the protection of the health, morals, rights and freedoms of others.¹⁴⁶

CSOs or associated individuals can challenge in court the decisions affecting the exercise of freedom of association such as the refusal to register,¹⁴⁷ the decision to suspend the CSO's activity,¹⁴⁸ or the refusal to attribute public utility status.¹⁴⁹ CSOs can also contest in court decisions affecting other rights such as judgments prohibiting or changing the conditions of an assembly,¹⁵⁰ a refusal of access to information,¹⁵¹ freedom of expression¹⁵² and other particular rights provided by specific laws. CSOs can also represent beneficiaries whose rights were violated in court and conduct strategic litigation.

Public institutions have the obligation to intervene through competent authorities in order to protect CSOs and associated individuals from attacks and interference on the part of third parties or state bodies' representatives. CSOs have access to justice and have taken these issues to the courts, but it is not common practice for these kinds of attacks to be addressed in court, especially considering that the judiciary is perceived by society as politically dependent, severely affected by corruption and acting mainly in the interests of corporations.¹⁵³ In the case of illegal surveillance and interception of opposition representatives, civic activists and journalists, the Prosecutor's Office accused five former police officers of violating the right to private life,¹⁵⁴ but the court has not yet issued a sentence.¹⁵⁵

Verbal attacks against CSO representatives have decreased in intensity and the phenomenon is manifesting mainly on the illiberal side of the political spectrum and at the local level. However, journalists, including those representing CSOs, frequently continue to be the target of verbal aggression in person. In 2022, there were several

¹⁴⁶ Art. 5(11), Law on Non-Commercial Organisations, 86/2020.

¹⁴⁷ Art. 13(13), Law on Non-Commercial Organisations, 86/2020.

¹⁴⁸ Art. 16(4), Law on Non-Commercial Organisations, 86/2020.

¹⁴⁹ Art. 25(6), Law on Non-Commercial Organisations, 86/2020.

¹⁵⁰ Art. 15, Law on Assemblies, 26/2008.

¹⁵¹ Art. 22, Law on Access to Information, 982/2000.

¹⁵² Chapter II, Law on Freedom of Expression, 64/2010.

¹⁵³ Legal Resources Centre from Moldova, Summary of discussions of the Forum from 2020 on Justice and Anticorruption, 2020, <http://old.crjm.org/wp-content/uploads/2020/12/Sumar-Forum-Justitie-Anticoruptie-2020-EN.pdf>.

¹⁵⁴ Prosecutor General of the Republic of Moldova, <http://www.procuratura.md/md/news/1211/1/8727/>.

¹⁵⁵ Courts portal, https://jc.instante.justice.md/ro/agenda-of-meetings?dossier_number=1-21153305-12-1-18102021&dossier_part=Cojocarui%20Valeriu%20&type=Penal&apply_filter=1.

cases of this kind, including from officials of the Autonomous Territorial Unit of Gagauzia¹⁵⁶ and victims of online death threats.¹⁵⁷

In 2022, law enforcement continued to take a proactive role in protecting peaceful assemblies. In June 2022, they protected the LGBTQ+ Pride March from hostile third-party groups, despite attempts by the Mayor of Chişinău to undermine the March (see section 3.4 (*Freedom of Peaceful Assembly*) above).

Starting in December 2021, as a result of repeated requests from CSOs,¹⁵⁸ the CNESP, responsible for decision-making regarding the anti-Covid-19 pandemic restrictions and consisting mostly of government officials, included in its meetings three experts in the field of human rights (representatives of the Ombudsman, the Council for Equality and Promo-LEX Association) to ensure compliance of CNESP decisions with human rights standards. However, this practice was not replicated within the CES after the declaration of the state of emergency as a result of the invasion of Ukraine by Russia. Consequently, the CES adopted provisions that limited freedom of assembly disproportionately and without justification of necessity (see section 3.4 (*Freedom of Peaceful Assembly*) above). As a result, the Ombudsman requested¹⁵⁹ the revision or repeal of the provisions so as to ensure a balance between international standards and public order and national security.

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 state can establish rules for CSOs for the purposes of AML/CTF only to the extent that these rules are in line with international human rights standards.¹⁶⁰ AML/CTF laws¹⁶¹ and anti-corruption laws¹⁶² do not contain provisions which directly restrict or impede CSOs from carrying out their legitimate activities or enjoying their fundamental freedoms, nor do they restrict or infringe the rights of their employees and donors. CSOs are affected by these regulations as they must submit statements on the beneficial owner of the legal entity,¹⁶³ identified as the administrator of the CSO's

¹⁵⁶ <https://nokta.md/potyauli-volosy-i-prigrozilis-pobrit-na-mitinge-v-vulkaneshtah-k-zhurnalistu-nokta-primenili-fizicheskuju-silu/>; https://nokta.md/raschlenju-etogo-klouna-sotrudnik-primarii-komrata-ugrozhaet-zhurnalistu-portala-nokta-md/?fbclid=IwAR3rxNXdrxecZEVnC7K9tG6vx6ickMKwKz-9IKVG7_PZWQ1YwlnumtyAZC8:https://www.facebook.com/Ania.Dmitrieva/posts/pfbid02MenpaPotMgVKa95gkt2RZtnpsCs2kYoXn9aFEVzYFRY1Db2WwcmtoD42kcfuVjwJl?notif_id=1657025688442916¬if_t=page_tag&ref=notif.

¹⁵⁷ <https://cji.md/en/media-ngos-call-on-law-enforcement-bodies-to-punish-those-who-made-murder-threats-against-journalists/>.

¹⁵⁸ Moldovan National Platform – Eastern Partnership Civil Society Forum, <https://www.eap-csf.md/declaratia-privind-abordarea-bazata-pe-drepturile-omului-hotararile-cnesp/>.

¹⁵⁹ Ombudsman's Office <http://ombudsman.md/news/avocatul-poporului-solicita-comisiei-pentru-situatii-exceptionale-si-institutiilor-abilitate-asigurarea-unui-echilibru-just-intre-dreptul-la-libertatea-intrunirilor-si-respectarea-ordinii-publice/>.

¹⁶⁰ Art. 5(10), Law on Non-Commercial Organisations, 86/2020.

¹⁶¹ Law on Preventing and Combating Money Laundering and Terrorism Financing, No. 308/2017.

¹⁶² Integrity Law, No. 82/2017, https://www.legis.md/cautare/getResults?doc_id=120706&lang=ro.

¹⁶³ Arts 5 and 14, Law on Preventing and Combating Money Laundering and Terrorism Financing, 308/2017.

funds. However, in reality, this person is not the beneficial owner of the CSO, thus the lexical requirement of the law does not follow the logic of the notion as it does for business entities. AML measures also further affect CSOs because they have to provide additional supporting documents (such as project documentation, or any other evidential documents requested) to commercial banks for outgoing international transfers. In October 2022, the Parliament consulted on a draft set of amendments to the Law on preventing and combating money laundering and terrorist financing,¹⁶⁴ including changes to the interpretation of the beneficial owner in the case of CSOs. The public consultations¹⁶⁵ on the draft law were organised without requesting feedback from civil society; only the announcement was posted on the official website of the Parliament and, three days later, the draft was registered in the Parliament.

In the Risk Assessment of Money Laundering and Terrorist Financing¹⁶⁶ conducted by the Money Laundering Prevention and Combating Service without involving CSOs, it was assessed that there are no indications of terrorist financing associated with the non-profit sector and the risk for non-profit organisations to be potentially used to finance terrorism is very low. Ten Muslim non-profit organisations were singled out as having increased potential to be abused to finance terrorism, based on the identified risk criteria. However, the report does not identify any cases in which non-profits have been used for the purpose of terrorist financing. The Risk Assessment also identifies the difficulty of identifying an exhaustive list of categories of national non-profit organisations falling under the Financial Action Task Force (FATF) definition. Nevertheless, the Risk Assessment provides a list of recommendations for the whole civil society sector that would only bring unnecessary and burdensome requirements for CSOs. In its first follow-up report (May 2022) regarding progress made by Moldova to address its technical compliance deficiencies,¹⁶⁷ MONEYVAL stated that deficiencies identified in the previous round of evaluation¹⁶⁸ under c.8.3 (the measures applied to promote effective supervision to nonprofit organisations (NPOs) at risk of financing terrorism are not fully risk-based) and c.8.4(a) (the monitoring of NPOs' compliance with the requirements of Recommendation 8 is not risk-based) have not

¹⁶⁴ Draft law 427/2022,

<https://www.parlament.md/ProcesulLegislativ/Proiectedeactele legislative/tabid/61/LegislativId/6259/language/ro-RO/Default.aspx>.

¹⁶⁵ <https://www.parlament.md/Actualitate/Anunsc8%9buri/tabid/285/ContentId/8087/Page/0/language/ro-RO/Default.aspx>.

¹⁶⁶ Service for the Prevention and Combating of Money Laundering, Report on the National Risk Assessment of Money Laundering and Terrorist Financing 2022, http://spscb.gov.md/ro/news/raportul-privind-evaluarea-na-ional-a-riscurilor-in-domeniul-sp-l-rii-banilor-i-finan-rii-terorismului?fbclid=IwAR0Q2RvREUxzooq9PDeimzt_vDGwve4HjN-1L7yILdy8Zq7sJLdQlvdgWDY.

¹⁶⁷ MONEYVAL, Anti-money laundering and counter-terrorist financing measures Moldova 1st Enhanced Follow-up, 2022 Report, <https://rm.coe.int/fur-moldova-1st/1680a6d980>.

¹⁶⁸ MONEYVAL, Fifth Round Mutual Evaluation Report, 2019, <https://rm.coe.int/summary-moneyval-2019-6-5th-round-mer-repmoldova/168097a39f>.

been addressed and therefore the rating of Recommendation 8¹⁶⁹ concerning NPOs remains only Partially Compliant (PC).

In 2022, there were no reported cases of CSOs being affected by claims of a connection with extremism, terrorism financing, money laundering or corruption. The December 2021 case of Amnesty International Moldova remains the only one of this kind, in which the CSO had its bank accounts blocked on the grounds that it had not submitted all the documents regarding its beneficial owner, even though all the required documents had in fact been submitted. The bank accounts were subsequently unblocked after a notification from the National Bank.

The anticorruption normative framework does not affect the activity of CSOs and their stakeholders.

Specific recommendations:

- The SIS and the OPFML should proactively engage CSOs in the process of identifying measures to address the issues concerning assessment of the vulnerabilities of CSOs for money laundering and terrorism financing;
- The relevant competent bodies should apply effective prevention and protection measures in all dangerous situations to which CSOs and their representatives are exposed (e.g., illegal wiretapping, cyberattacks, privacy violation, online attacks, etc.); and
- The Parliament should revise the definition of beneficial ownership with regard to CSOs to ensure it takes into consideration their specific structure and provides clear guidance on what information CSOs are required to provide in that respect.

¹⁶⁹ FATF Recommendation 8 requires that the laws and regulations that govern non-profit organisations be reviewed so that these organisations cannot be abused for the financing of terrorism.

3.9 State Support

Overall score per area: **4.3 / 7**

Legislation: **4.7 / 7**

Practice: **3.9 / 7**

The state provides funding to CSOs through different mechanisms such as non-reimbursable financing, contracting of works and services, or through special purpose financing, including social order, percentage designation, and direct subsidies to CSOs.

The participation of CSOs in public procurement procedures is burdensome. The state procures medical services from CSOs on a more regular basis, while it procures only a few social services from CSOs. Direct subsidies are provided preferentially to only a few CSOs. Percentage designation is a growing trend, but still far from its full potential. Social entrepreneurship is still insufficiently used and is at an early stage of development. The Certification Commission for Public Benefit Status resumed its activities based on the regulation amended in 2021.

The fiscal benefits for donations are still low and legal conditions do not encourage philanthropic activity. There are legal benefits for volunteering but also some burdensome administrative responsibilities for CSOs which so far have not served to boost volunteering activity.

The overall score in the area of State Support remained the same, while the Law score increased from 4.6 in 2021 to 4.7 in 2022. The Practice score remains the same as in 2021. The increase in the Law score is mainly due to the Government approving the Framework Regulation regarding the non-reimbursable financing mechanism for projects of non-commercial organisations and the Parliament amending the legislation on philanthropy and sponsorship.

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

State funding can be provided to CSOs through different mechanisms¹⁷⁰ such as non-reimbursable financing, contracting of works and services, or through special purpose financing, including social order, percentage designation, and direct subsidies to CSOs.¹⁷¹ Resources allocated for this purpose are provided for in the state budget and in the budgets of the administrative-territorial units. In-kind support granted by the state is achieved mainly by offering the right to use public property either free of charge or on preferential terms.¹⁷²

¹⁷⁰ State Budget Law, Law on Public Procurements, No 131/2015; Law on Public-Private Partnership, No 179/2008; Government Decision Approving Some Measures to Support Youth Activities, No 1213/2010; Framework Regulation on Organisation and Implementation of the Grants Programme for Youth Organisations and National/Local Project Contest for Youth Initiative Groups; Regulation on state budget funding of cultural projects implemented by civic associations, adopted by Government Decision No 834/2014; Order of the Minister of Youth and Sports Approving the Framework Regulation on Organisation and Implementation of the Grants Programme for Youth Organisations and National/Local Project Contest for Youth Initiative Groups; Regulation on organisation and implementation of the Small Grants Programme in the field of active ageing.

¹⁷¹ Art. 5(4), Law on Non-Commercial Organisations, 86/2020.

¹⁷² Art. 5(6), Law on Non-Commercial Organizations, 86/2020.

International donors remain the main source of income for CSOs, while state support is only able to fund a small part of their basic needs. CSOs have been supported for several years from the public budget through project financing programmes, the percentage designation mechanism and service contracting. In addition, some CSOs receive direct allocations according to the mechanism described in section 3.2 (*Equal Treatment*) above. These direct allocations are not in line with good practices or with the principles of transparency, free competition and equal treatment, and therefore constitute a discretionary support for only a few CSOs.

Two annual grant programmes from the Central Public Administration's (CPA) budget support projects in the fields of culture¹⁷³ and youth. In 2022, 200,000 EUR was allocated for cultural projects to 35 beneficiary CSOs. Roughly, another 0.5 million EUR was allocated for youth projects through several grant programmes at the national level (for 30 CSOs) and at the regional level (for 13 CSOs), plus a network of Local Youth Councils.¹⁷⁴ The total number of beneficiary CSOs remains similar to previous years, but a special condition of the programme stipulates that 80,000 EUR is intended to support the projects of CSOs that no longer benefit from funding through this competition. At the local level, some district level LPAs support grant programmes.

The participation of CSOs in public procurement procedures is burdensome for the reasons described in section 3.2 (*Equal Treatment*) above, and these put CSOs at a disadvantage compared to commercial entities. In 2022, the three social services procured annually by CPAs from CSOs (hotline assistance for children,¹⁷⁵ female victims of domestic violence¹⁷⁶ and persons with disabilities)¹⁷⁷ was added to by the Barnahus-type regional integrated assistance centre for child victims and witnesses of crime.¹⁷⁸ At the same time, however, the budget allocated for the telephone assistance service for people with disabilities was significantly reduced.

There was a positive development at the local level, where the mobile team service of a local CSO¹⁷⁹ was contracted by the Criuleni Local Council. Accredited CSOs participate in the tenders for the medical and sanitary services contracted by the CNAM from private actors. In 2022, 18 CSOs contracted services of EUR 1.3 million, which

¹⁷³ Ministry of Culture, https://mc.gov.md/ro/content/rezultatele-concursului-de-proiecte-culturale-2022?fbclid=IwAR0zT-wlvHT3pwphH3MCPusK2rCmeUyXG6KSTWI4VgfOsS3ITOTBKn_syJQ.

¹⁷⁴ Ministry of Education, <https://mecc.gov.md/ro/content/programul-de-granturi-pentru-organizatiile-de-tineret>.

¹⁷⁵ Free telephone assistance for children (116 111) provided by 'CNFACEM' Association.

¹⁷⁶ Hotline for female victims of domestic violence provided by 'La Strada' Centre.

¹⁷⁷ Free telephone assistance service for people with disabilities provided by AO Keystone Moldova.

¹⁷⁸ <https://social.gov.md/comunicare/un-centru-cu-servicii-integrate-pentru-copii-victime-sau-martori-ai-infractiunilor-s-a-deschis-la-balti/>.

¹⁷⁹ Public Association „Femeia și Copilul-Protecție și Sprijin”, <https://fcps.md/en/serviciul-echipa-mobila-a-pornit-din-septembrie-cu-noi-beneficiari/>.

represents 19 per cent of all contracted institutions. In 2021, CSOs represented 20 per cent of contracted institutions, while in 2022 that percentage was 27 per cent.¹⁸⁰

CSOs can operate social enterprises based on amendments¹⁸¹ to the regulations on entrepreneurship and enterprises in force since 2018. Social entrepreneurship is still struggling to grow in Moldova, with only four social enterprises currently officially registered. Social entrepreneurship is still insufficiently used and is at an early stage of development. A recent study of specialised CSOs¹⁸² systematised several recommendations regarding legal and fiscal aspects, labour relations and public procurement that would boost development of social entrepreneurship.

The necessary changes to the regulatory framework proposed¹⁸³ by CSOs have not yet found an official resolution. The last legal change in this area was the regulation adopted in 2021¹⁸⁴ that allows subsidisation of taxes for social enterprises that employ people with disabilities. The government programme for mentoring and financing social entrepreneurship initiatives announced in 2021¹⁸⁵ has not yet been adopted.

In 2022, the percentage designation mechanism returned to an upward trend and registered an increase of around 7 per cent, thus reaching the highest figures since 2017, when the mechanism was introduced.¹⁸⁶ 710 CSOs received a total income of over 480,000 EUR, more than double the amount of income received by CSOs in 2017. The number of validated contributions has also increased up to almost 35,000, but these represent only 2.5 per cent of the total number of taxpayers (natural persons) in the Republic of Moldova. The figures show that, although there is growth, the pool of potential contributors is underutilised and that the mechanism is far from its full potential.

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

Financial support provided by public authorities should follow a public tender and should be guided by the principles of dialogue, transparency, simplicity and clarity of procedures, equal treatment, recognition of the particularities of different categories

¹⁸⁰ Contracts with medical and sanitary institutions, <http://map.cnam.md/contracte-cu-institutiile-medico-sanitare/>.

¹⁸¹ Law on Amendments and Addenda to Some Legal Acts, No 223/2017,

https://www.legis.md/cautare/getResults?doc_id=101472&lang=ro.

¹⁸² Eco Visio White Paper on Social Entrepreneurship 2022, <https://drive.google.com/file/d/1m-dRZgx5PjENWESNoO8Wix9ogF3S-oar/view>.

¹⁸³ Social Entrepreneurship Initiative in Moldova,

http://www.antreprenoriatsocial.md/media/files/Propuneri_Program%20national%20antreprenariat%20social_Nr_9_82_MEI_2020.pdf;

http://www.antreprenoriatsocial.md/media/files/Demers_MEI_recomandari_PlanAS_19012021_semnat.pdf.

¹⁸⁴ Government Decision for the approval of the Regulation on subsidising jobs, 49/2021,

https://www.legis.md/cautare/getResults?doc_id=126874&lang=ro.

¹⁸⁵ <https://www.odimm.md/ro/presa/comunicate-de-presa/4979-antreprenoriatul-social-in-republica-moldova-va-fi-sustinut-printr-un-program-de-suport>.

¹⁸⁶ State Fiscal Service, "The results of the percentage designation in 2022", 2022

<https://sfs.md/uploads/files/rapoarte/raport%20desemnare%20procentuala%202022.pdf>.

of organisations, the efficient use of public funds and multi-annual funding.¹⁸⁷ In September 2022, the Government approved the Framework Regulation regarding the non-reimbursable financing mechanism for projects of non-commercial organisations.¹⁸⁸ The Government Decision stipulates that the non-reimbursable financing mechanism from the national budget and local budgets is applied in all areas of development, through cooperation between central and local public administration authorities and non-commercial organisations. The development of a unified mechanism for state funding for CSOs was initiated in November 2019.¹⁸⁹ The Regulation expressly provides the principles underlying the mechanism of non-reimbursable financing of projects of non-commercial organisations, namely: transparency, free competition, equal treatment, proportionality and simplicity, dialogue, non-retroactivity, annual public tenders, multi-year financing and efficient use of public financial resources.

According to the Regulation, the funding authority sets funding priorities for each development area based on policy and budget planning documents that are consulted on with non-commercial organisations and published on the authority's official website at the beginning of the financial year. At the same time, the procedure for selecting and evaluating the projects of non-commercial organisations will be done with the participation of CSO representatives. The Regulation also stipulates the mandatory existence of a mechanism for monitoring, evaluating and presenting the results of the project.

Information on the procedure and selection criteria regarding the financing of programmes from the CPA budget is usually published on the official websites of the relevant ministries.¹⁹⁰ However, of the two ministries that are providing grants for CSOs, the information on cultural projects for the past two years has not been updated as a result of the reorganisation of the Ministry of Culture and the redesign of its official website.¹⁹¹

There is no evidence that state support is used to interfere in the activities of CSOs, or to undermine their independence. Information on the funding provided and its beneficiaries is published on the websites of the granting authorities.¹⁹² There was controversy regarding the initiatives financed from the 2022 Civil Budget of Chişinău

¹⁸⁷ Art. 5(5) and (7), Law on Non-Commercial Organisations, 86/2020.

¹⁸⁸ Government Decision 656/2022 for the approval of the Framework Regulation regarding the non-reimbursable financing mechanism of projects of non-commercial organisations, https://www.legis.md/cautare/getResults?doc_id=133924&lang=ro.

¹⁸⁹ State Chancellery <https://cancelaria.gov.md/ro/content/dezvoltarea-si-imbunatatirea-mecanismelor-de-finantare-directa-proiectelor-organizatiilor>.

¹⁹⁰ Ministry of Education and Research, <https://mecc.gov.md/ro/content/programul-de-granturi-pentru-organizatiile-de-tineret>.

¹⁹¹ Ministry of Culture <https://mc.gov.md/ro/content/proiecte-culturale-2018>, <https://mecc.gov.md/ro/content/proiecte-culturale-3>.

¹⁹² Ministry of Education and Research, <https://mecc.gov.md/ro/content/programul-de-granturi-pentru-organizatiile-de-tineret>.

City Hall,¹⁹³ about which concerns¹⁹⁴ were expressed that the initiatives were aimed more at promoting the City Hall than funding social programmes.¹⁹⁵

Standard III. CSOs enjoy a favourable tax environment.

CSOs pay income tax, social and medical contributions for employees, but are exempt from income tax, including for economic activities, if they conduct activities according to statutory purposes.¹⁹⁶ If, during a given year, a CSO sells services for more than 60,000 EUR, it is obliged to pay VAT. CSOs can benefit from a zero VAT rate and customs benefits for projects approved under international treaties.¹⁹⁷ In 2022, like in previous years, there were over 700 projects¹⁹⁸ benefiting from this facility, most of them implemented by CSOs.

CSOs can receive public benefit status attributed by the Certification Commission for Public Benefit Status for a period of five years¹⁹⁹ via a clear procedure.²⁰⁰ In June 2022, after two years of inactivity, the Certification Commission resumed its activities based on the regulation amended in 2021.²⁰¹ Its activities had been blocked because its members had not been appointed after the Commission was transferred from the MoJ to the PSA in 2020. Only 18 CSOs (out of a total of 99 CSOs in 2020)²⁰² still had public benefit status by the time the Certification Commission resumed its activities in 2022. By the date of the current report, the Commission had attributed public benefit status to 46 CSOs.²⁰³

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

Businesses that offer donations to CSOs can officially enjoy tax benefits. Individuals do not enjoy tax benefits for donations since 2016, after the law on percentage designation entered into force. In practice, the Law on Philanthropy and Sponsorship²⁰⁴ is not favourable for encouraging business entities to engage in

¹⁹³ Civic Budget of the Chişinău City Hall <https://chisinau.md/category.php?l=ro&idc=1177&t=/Buget-Civil-Chiinau/>.

¹⁹⁴ <https://primariamea.md/bugetul-civil-2022-doar-trei-proiecte-de-infrastructura-si-mai-multe-initiative-de-promovare-a-primariei/>.

¹⁹⁵ <https://tvr Moldova.md/article/e39a7d49a05caa24/conducerea-primariei-chisinau-acuzata-de-depasirea-atributiilor.html>.

¹⁹⁶ Art. 52, 'Non-commercial organisations', Tax Code of the Republic of Moldova.

¹⁹⁷ Government Decision on how to apply the tax benefits and customs duty breaks related to the implementation of ongoing technical assistance and investment projects that fall in the scope of international treaties that the Republic of Moldova is party to 246/2010, https://www.legis.md/cautare/getResults?doc_id=110454&lang=ro.

¹⁹⁸ List of ongoing technical assistance projects, which fall under the scope of international treaties, for the application of exemptions, https://www.legis.md/UserFiles/Image/RO/2021/mo209-210md/246_an_1.doc.

¹⁹⁹ Art. 22(2), Law on Non-Commercial Organisations, 86/2020.

²⁰⁰ Chapter V, Public Benefit Status, Law on Non-Commercial Organisations, 86/2020.

²⁰¹ Regulation of the Certification Commission for Public Benefit Status, https://www.legis.md/cautare/getResults?doc_id=48138&lang=ro.

²⁰² MoJ, List of NCOs with public utility status, 2020

http://www.justice.gov.md/public/files/dir_prof_si_serv_jurid/decizii_2020/Lista_AO_actualizata_01.06.2020.pdf.

²⁰³ PSA, Certification Commission, <https://www.asp.gov.md/ro/informatii-utile/comisiei-de-certificare>.

²⁰⁴ Law on Philanthropy and Sponsorship, 1420/2002,

https://www.legis.md/cautare/getResults?doc_id=108161&lang=ro.

philanthropic activity. Taxpayers have the right to make tax-deductible donations (both monetary and non-monetary) during the fiscal year for philanthropic or sponsorship purposes, but they cannot exceed 5 per cent of the total taxable income. The threshold provides no effective benefits²⁰⁵ and the legal conditions do not encourage philanthropic activity. In July 2022, the Parliament adopted amendments to the legislation on philanthropy and sponsorship that were developed and promoted by the Platform for Promotion and Development of Philanthropy²⁰⁶ run by CSOs. The amendments are expected to provide more clarity and incentives for the development of philanthropic activities. The amendments clarify the legal status of philanthropy and sponsorship activities, address contractual standards, the mechanisms for providing tax benefits and reporting, and the right of individuals to tax deductions. The amendments also exclude provisions that have proven to be ineffective or inapplicable in practice, given that the Law on Philanthropy and Sponsorship was adopted in 2002. The next step necessary to encourage philanthropic activity would be increasing the tax benefits for donors, who currently have the right to deduct donations, but not more than 5 per cent of the total taxable income which does not serve as a real incentive for donors.

Standard V. Legislation and policies stimulate volunteering.

The status of volunteers and volunteering is defined in a dedicated Law on Volunteering.²⁰⁷ The law and associated regulatory framework²⁰⁸ provide for volunteering activity in organisations that have the status of 'host institution'. CSOs can become host institutions by obtaining a special certificate provided by the Certification Commission,²⁰⁹ which operates under the Ministry of Education. The number of CSOs registered as host institutions is decreasing. In October 2022, there were 42 CSOs registered as host institutions out of a list of 82 registered host institutions in total.²¹⁰ In early 2019, there were about 100 CSOs that had this status.

The factors that may have influenced this downward trend are the Covid-19 pandemic, which significantly affected the possibilities for CSOs to involve volunteers, and also the limited benefits for volunteers and/or the burdensome administrative responsibilities around volunteering that led some CSOs to cease working with volunteers. Among these, a host institution can engage volunteers with

²⁰⁵ Expert Grup, 'Fiscal Mechanisms for Stimulating Philanthropy,' 2011, https://www.expert-grup.org/media/k2/attachments/Mecanisme_fiscale_de_stimulare_a_filantropiei.pdf.

²⁰⁶ Platform for the Promotion and Development of Philanthropy, <https://www.facebook.com/filantropie.md/>.

²⁰⁷ Law on Volunteering, 121/2010, https://www.legis.md/cautare/getResults?doc_id=18722&lang=ro#.

²⁰⁸ Regulation Implementing the Law on Volunteering, https://www.legis.md/cautare/getResults?doc_id=18722&lang=ro#.

²⁰⁹ Regulation on the organisation and functioning of the Certification Commission and the model Certificate of host institutions regarding voluntary activity, <https://mecc.gov.md/ro/content/voluntariat>, https://www.legis.md/cautare/getResults?doc_id=126377&lang=ro#.

²¹⁰ Ministry of Education and Research, List of institutions hosting the volunteer activity https://mecc.gov.md/sites/default/files/registru_national_de_evidenta_al_institutiilor_gazda_a_activitatii_de_voluntariat_13.pdf.

or without a contract (for less than 20 hours per month), must develop a three-year volunteering programme, keep registers and provide volunteer cards. Starting in 2019, host institutions must also present annual activity reports to the Certification Commission. Some CSOs have reported excessive bureaucracy in the procedure for engaging volunteers and a lack of support programmes for volunteers for which CSOs have to bear the operational costs.

Policies and measures encouraging volunteering provide²¹¹ some incentives: volunteering experience is considered as work experience upon employment, it is an advantage criterion for enrolling in higher education institutions, receiving scholarships or obtaining accommodation in university dormitories, and transferable study credits are available from universities for internships in areas of public benefit that are related to the volunteer's education profile and speciality. LPAs may grant tax exemptions from local taxes and provide facilities to hosting institutions.²¹² However, in practice, the responsible institutions offer little to no advantages and the importance of the volunteering framework is slowly fading. The experience of volunteers is an asset recognised mostly outside of Moldova. International volunteering is defined and regulated by law.²¹³ CSOs can engage foreign volunteers and also send volunteers abroad.

There was no progress in the expected set up of a National Volunteering Centre²¹⁴ that the Government²¹⁵ initially planned in 2018 for implementing policies for the development of the voluntary sector and active citizenship. In the absence of the Centre, it is speculated that some responsibilities concerning volunteering might be taken over by the National Agency for the Development of Youth Programs and Activities created in 2020.

Specific recommendations:

- The Government should adopt amendments provided by CSOs for the regulatory framework on social entrepreneurship in order to boost the development of this regulation;
- The Government should set up the National Volunteering Centre as the institution responsible for implementing policies for the development of the voluntary sector and active citizenship;
- The Government should develop a national programme and fund to support volunteering;

²¹¹ Chapter IV, Policies and Measures Encouraging Volunteering, Law on Volunteering, No. 121/2010.

²¹² Art. 16, Law on Volunteering, No 121/2010.

²¹³ Art. 2 and Art. 17, International volunteering, Law on Volunteering, 121/2010.

²¹⁴ Deliverable included in items 3.1.1.1 and 3.2.1.2 of the Action Plan implementing the CSDS.

²¹⁵ Law No. 128 of 9 July 2020 amending Art. 9 of the Volunteer Law No. 121/2010,

https://www.legis.md/cautare/getResults?doc_id=122446&lang=ro.

- Financial support from the state budget should be increased and national mechanisms for CPA and LPA support to CSOs on the basis of the best national and international practices should be implemented, including through multiannual contracts based on the consistent allocation of funds to the LPA budgets; and
- The State Tax Service and other responsible state institutions should facilitate the dissemination of information to the population about the mechanism on percentage designation and aim to enhance procedures and results on all aspects of the mechanism.

3.10 State-CSO Cooperation

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

Legislation: **4.3 / 7**

Practice: **3.9 / 7**

The expired Civil Society Development Strategy 2018-2020 (CSDS) was subjected to a new ex-post evaluation, which may lead to the concept of a new strategic document to support CSO development. Institutionalised cooperation between the state and CSOs is almost non-existent and relies mostly on consultation in the decision-making process. The focal point for relations with civil society in the State Chancellery is not visible and is not supported by adequate resources and tools. During the influx of refugees from Ukraine, CSOs promptly provided indispensable support to the new arrivals and public institutions to manage the situation by means of an informal partnership through which many of the problematic issues were resolved.

The overall score in the area of State-CSO Cooperation increased from 4 in 2021 to 4.1 in 2022. The Law score increased from 4.2 to 4.3 and the Practice score increased from 3.8 to 3.9. The increases are due to developments in the initiatives to improve cooperation. The State Chancellery initiated a process of creating consultation platforms for draft normative acts for the CPA and the Parliament. The Parliament, in cooperation with a CSO platform, plans to organise priority-setting events once or twice a year, as well as quarterly or monthly consultations with parliamentary committees on draft laws.

The main recommendation for the Government is to approve a new strategic document for the development of civil society and adopt institutional procedures for direct and open collaboration with CSOs. LPAs are also recommended to replicate the positive practice of cooperation developed at the central level.

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

The CSDS²¹⁶ was the most-recently implemented policy document concerning CSO development and cooperation with the state. Its implementation was concluded in 2020 with a 50 per cent rate of implementation of its planned activities, according to

²¹⁶ The Law Approving the 2018–2020 Civil Society Development Strategy, No 51/2018, https://www.legis.md/cautare/getResults?doc_id=105436&lang=ro.

the self-evaluation report.²¹⁷ The implementation of the strategy was problematic, with several implementation and monitoring deficiencies revealed. In 2022, the CSDS was subjected to a new ex-post evaluation with the contracting of independent experts supported by GIZ and endorsed by the State Chancellery. By the beginning of 2023, the experts are expected to deliver the evaluation report and the concept for a new policy document on CSO development which the State Chancellery is willing to develop.

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

Cooperation between the state institutions and CSOs is legally enabled through different mechanisms. The transparency legislation²¹⁸ provides public institutions with a framework for creating temporary working groups with the participation of CSOs for developing or consulting on public policies. There are also joint structures for monitoring specific policies (such as the former Monitoring Committee of the CSDS) alongside permanent structures for specific areas (such as the National Council for Child Rights Protection²¹⁹ and the National Committee for Combating Trafficking in Human Beings)²²⁰ established based on government decisions.

At the level of the Rayon (District) Councils, there are a few functional Participation Councils²²¹ which have established consistent cooperation.²²² These Participation Councils can be considered a good practice, as their recommendations are periodically taken into consideration by the Rayon Councils. These Participation Councils engage in the decision-making process at the district level based on specific regulations adopted by Rayon Councils²²³ and are open to CSOs active in the administrative area of the rayon.

A special structure for cooperation with CSOs is the Directorate for Coordination in the Area of Human Rights and Social Dialogue (the former Directorate of Permanent Secretariats), part of the State Chancellery, which also includes the focal point for relations with CSOs (instituted in 2019). The focal point is, however, not supported by a specific framework which would provide tools and methods to be applied in its relations with CSOs. The Directorate itself has little visibility or direct engagement with CSOs, apart from supporting the secretariats for cooperation formats in the

²¹⁷ State Chancellery, 'Report on the implementation of Civil Society Development Strategy, 2018-2020,' 2021, https://cancelaria.gov.md/sites/default/files/document/attachments/raport_strategie_dsc_2018-2020_iii_anexe.pdf.

²¹⁸ The Law on Transparency in Decision-making, No 239/2008.

²¹⁹ National Council for Child Rights Protection, <https://cnpdc.gov.md/ro/advanced-page-type/membrii-consiliului>.

²²⁰ National Committee for Combating Trafficking in Human Beings, <http://antitrafic.gov.md/>.

²²¹ Soroca Rayon Participation Council, <http://euparticip.md/>; Căușeni Rayon Participation Council, <https://www.facebook.com/crp.causeni/>; Cahul Rayon Participation Council, <https://crp-cahul.md/>.

²²² Art. 43(1)(t), Law on Local Public Administration, 436/2006.

²²³ <http://euparticip.md/wp-content/uploads/2019/06/Regulment-CPR-Soroca-web.pdf>.

National Commission for Consultations and Collective Negotiations²²⁴ and the National Council for Human Rights²²⁵ active for several years.

The State Chancellery plans to create platforms for consultation of draft normative acts for the CPA and the Parliament. At the time of drafting this report, the mechanism for selecting participants and operating the platforms is still in the process of being elaborated. By the time of this report, CSOs had not yet been involved in developing the mechanism.

During the arrival of refugees from Ukraine, hundreds of CSOs promptly got involved and provided indispensable support to refugees and public institutions to manage the situation. According to a study of the efforts of Moldovan CSOs to support Ukrainian refugees,²²⁶ during the first six months following the Russian invasion of Ukraine, 75 CSOs assisted more than 240,000 refugees. 66 per cent of the targeted CSOs made the decision to get involved in refugee assistance in February 2022, and another 31 per cent in March 2022. The spectrum of services provided by CSOs included material/humanitarian support, catering, placement/accommodation, psychological counselling, educational or recreational activities for children, medical services, logistical support, transportation, legal advice, job search support, re-establishing links with family, and referral to other institutions and services.

The study highlighted that CSOs had mostly poor cooperation with the government, determined by the poor preparation of both the authorities and civil society for the management of the humanitarian situation. The cooperation of CSOs with LPAs was mostly rated as good, viable partnerships having been established between them in various formats such as the crisis cells or the Sub-national Refugee Coordination Forum in Bălți.²²⁷

Ninety-five CSOs and international organisations were involved in the effort to manage the effects of the refugee situation by means of the task force established by the Government, later organised as the Single Crisis Management Centre (SCMC).²²⁸ In addition to assisting refugees, several CSOs have initiated monitoring activities, on issues such as hate speech and the inciting of discrimination against refugees, the fulfilment of the rights of Roma refugees, and the rights of refugee women and girls vulnerable to trafficking. Other initiatives to collect information from refugees and document the war crimes many have experienced are also emerging. Cooperation took place on the basis of an unwritten partnership by informal cooperation by CSOs with

²²⁴ <http://cncnc.gov.md/>.

²²⁵ <https://cancelaria.gov.md/ro/apc/consiliul-national-pentru-drepturile-omului>.

²²⁶ Alliance of Active NGOs in the field of Child and Family Social Protection (APSCF), Mapping the efforts of civil society organisations, APSCF members and partners, to support Ukrainian refugees in the Republic of Moldova, 2022 <https://bit.ly/3YOYu6H>.

²²⁷ https://balti.md/?ecwd_event=forum-de-coordonare.

²²⁸ <https://gov.md/en/content/single-crisis-management-centre-set-moldova>.

various points of contact in the Government, through which many of the problematic situations were resolved.

Other previously-launched CSO-state cooperation formats are no longer functional, such as the annual conference convened by the President of the Parliament (inactive since 2016),²²⁹ the National Participation Council (inactive since 2019), the Consultative Platform²³⁰ for CSO representatives set up by Parliament (inactive since 2019) and the Civil Society Council,²³¹ under the Presidency of the Republic of Moldova (which ceased to exist in 2020, following a few years of inactivity).

CSOs also unite in voluntary independent national platforms and networks that can engage in cooperative relationships with state institutions. The most prominent such general platforms are the NGO Council,²³² a representative structure engaged in dialogue on issues concerning the CSO enabling environment. As a result of advocacy from the NGO Council, the Certification Commission for public benefit status was reactivated and CSOs were able to continue to obtain the status. In October 2022, the NGO Council organised the NGO Forum, the final resolution of which includes several requests addressed to public institutions aimed at eliminating the deficiencies in cooperation between the state and CSOs that have been reported for several years.

The Moldovan National Platform Eastern Partnership Civil Society Forum,²³³ which supports European integration, serves as a consultative platform. In October 2022, a joint meeting²³⁴ of the parliamentary committees and CSOs from the Platform was held in order to strengthen cooperation. An outcome of the meeting was the decision to organise priority-setting events once or twice a year, as well as to hold quarterly or monthly consultations with parliamentary committees on draft laws.

Other types of cooperation platform include those with a narrow focus, for example the Platform for the Promotion and Development of Philanthropy²³⁵ has been drafting amendments to the Law on Philanthropy and Sponsorship together with the MoJ. In these cases, the cooperation mechanism is rather reactionary on the part of state institutions.

²²⁹ Parliament's decision on the concept of cooperation between parliament and civil society, No 373/ 29 December 2005, <http://www.legis.md/cautare/rezultate/20911>.

²³⁰ Parliament of the Republic of Moldova,

<http://parlament.md/Actualitate/Comunicatedepresa/tabid/90/ContentId/5692/language/en-US/Default.aspx>.

²³¹ President of the Republic of Moldova, <https://presedinte.md/rom/componenta>.

²³² NGO Council, <https://www.consiliuon.md/prezentarea-general/>.

²³³ Moldovan National Platform – Eastern Partnership Civil Society Forum, <https://www.eap-csf.md/>.

²³⁴ <https://www.parlament.md/Actualitate/Comunicatedepresa/tabid/90/ContentId/7957/Page/21/language/ro-RO/Default.aspx>.

²³⁵ Platform for the Promotion and Development of Philanthropy, <https://www.facebook.com/filantropie.md>.

Specific recommendations:

- The State Chancellery should take responsibility for developing and implementing a new strategic document for the development of civil society together with CSOs that should also include actions not performed in the previous strategy (CSDS 2018-2020). The Government and the Parliament should adopt the strategic document and financial resources should be allocated to ensure the implementation of all the action points included in it;
- The Government should adopt institutional procedures for direct and open collaboration between the Directorate for Coordination in the Area of Human Rights and Social Dialogue of the State Chancellery and CSOs on the issue of civil society, possibly with the involvement of other relevant public institutions;
- The Government should adopt specific instructions to enhance the activity of the focal point appointed for relations with CSOs;
- The Parliament should resume the regular organisation of the annual conference it previously held with CSOs as a tool for ongoing dialogue, including reviving the Civil Society-Parliament Collaboration Concept;
- District Councils should replicate the decision-making transparency module (functional at the CPA level) on their websites; and
- LPAs and CPAs should develop a framework mechanism of cooperation between CSOs on one hand and CPAs and LPAs (of local and rayon level) on the other, to ensure the representation, involvement and development of local CSOs.

3.11 Digital rights

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

Legislation: **4.4 / 7**

Practice: **4.0 / 7**

There is widespread and affordable access to the internet across the whole country, thus allowing for increasing online activity. The state does not explicitly regulate digital rights. Digital technologies are developed without mechanisms to ensure the respect of human rights. There are a few modest initiatives in place to close the 'digital gap'.

The overall score for the area of Digital Rights (4.1 to 4.2), as well as the scores for Law (4.3 to 4.4) and Practice (3.9 to 4) all increased from 2021. The Government initiated the elaboration of the Digital Transformation Strategy of the Republic of Moldova for the years 2023-2030 (STDM 2030), which addresses tangentially the promotion and protection of rights and freedoms online; the necessity to reduce the digital divide and develop digital literacy are also addressed in the draft strategy.

The main recommendations are to build digital proficiency of the justice sector, to strengthen policy-making capacities and integrate a human rights-based approach in the digital area. Additionally, public authorities should have a more proactive approach in closing the gap in the digital divide and involve CSOs in the development process of the STDM 2030.

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

The access of any natural or legal person to publicly-accessible electronic communications services is guaranteed throughout the territory of the Republic of Moldova, under non-discriminatory and confidential conditions.²³⁶ The protection of online exercise of rights is not subject to specific legislation, but rather to general legislation. Limitations to digital rights could arise from gaps in legislation which has not been expressly designed for the online environment.

In addition to the Law on Electronic Communications, there are several legal and administrative instruments aimed at protecting some aspects of the online environment such as the International Convention on Cybercrime ratified in 2009, the Law on Preventing and Combating Cybercrime 20/2009, the Law on Personal Data Protection 133/2011, regulators (such as the National Regulatory Agency for Electronic Communications and Information Technology (ANRCETI) and the NCPDP) and specialised law enforcement (such as the Directorate for Combating Cyber Crimes, part of the General Police Inspectorate). In addition, the Information Technology and Cyber Security Service (STISC)²³⁷ serves as a support service which has, among other things, the mission of ensuring the administration, maintenance and development of the information technology infrastructure, the telecommunications system of public administration authorities and the implementation of state policy in the field cyber security.

Digital policies are coordinated by the Deputy Prime Minister for Digitalisation, who does not have a dedicated supporting administrative structure for policy making. Instead, technological development in public life is conducted under the auspices of the EGA,²³⁸ which is mainly focused on the development of electronic services as an addition to conventional public services.

In 2022, the EGA coordinated the development of the STDM 2030.²³⁹ The Strategy was initiated in July 2022, after the previous document regarding digital development (the

²³⁶ Law on Electronic Communications, 241/2007
https://www.legis.md/cautare/getResults?doc_id=125279&lang=ro#.

²³⁷ <https://stisc.gov.md/ro>.

²³⁸ E-Governance Agency, <https://egov.md/en/about>.

²³⁹ <https://particip.gov.md/ro/document/stages/anunt-privind-initierea-elaborarii-strategiei-de-transformare-digitala-a-republicii-moldova-pentru-anii-2023-2030-stdm-2030/9355>.

National Strategy Digital Moldova 2020²⁴⁰) had expired. The priority objectives of the Strategy provided in the concept are: (i) the development of a digital society; (ii) a strong, innovative and competitive ICT environment; (iii) to secure the ICT and digital environment; (iv) digital public services leading to a functional and invisible digital state; (v) international cooperation and the promotion of digital Moldova; and (vi) the digital economy. The concept of the STDM 2030 proposes the promotion and protection of rights and freedoms online, and some of its expected impacts²⁴¹ are a well-protected cyberspace, that rights in the digital space are ensured, and reliable and secure personal data.

One of the problematic areas identified in the strategy development process is the lack of legislation regarding new digital technologies (such as artificial intelligence (AI), Blockchain, the internet of things (IoT), Big Data, Mining, etc.) which leaves a legal gap for the development and commercialisation of these technologies. The proposed actions also include conducting studies for the development of emerging technologies and capitalising on EU countries' initiatives and programmes in the abovementioned fields and other emerging technologies.

However, under the guise of fighting child pornography, law enforcement has a mechanism (covering both hardware and software) that allows them to monitor providers' data and block any webpage they wish.

During the first months of the state of emergency, the SIS continued to order²⁴² the blocking of pages with 'fake news' content. There is, however, no quick blocking procedure for websites, the conditions and procedure by which blocking is identified and ordered is not clear, and there is no possibility to appeal these decisions. It is a vulnerable model that can easily lead to abuse. There is, however, no widespread practice of blocking websites or removing online content.

According to sources interviewed for this report, in 2022 there were network failures at the border crossing points of the Republic of Moldova with Ukraine. These occurred for technical reasons in the context of the arrival of a large number of refugees because

²⁴⁰ Ministry of Economy and Infrastructure,

https://mei.gov.md/sites/default/files/raport_de_evaluare_moldova_digitala_2020.semnat.pdf.

²⁴¹ The final concept of the Digital transformation strategy of the Republic of Moldova for the years 2023–2030

https://particip.gov.md/ru/download_attachment/16881.

²⁴² <https://sis.md/ro/content/alte-dou%C4%83-site-uri-promotoare-de-informa%C8%9Bii-ce-incit%C4%83-la-ur%C4%83-%C8%99i-r%C4%83zoi-urmeaz%C4%83-fi-blocate>;

<https://sis.md/ro/content/un-site-care-promoveaz%C4%83-informa%C8%9Bii-false-ce-incit%C4%83-la-ur%C4%83-%C8%99i-r%C4%83zboi-blocat>;

<https://sis.md/ro/content/update-sursele-informa%C8%9Bionale-care-distribuie-%C8%99tiri-false-informa%C8%9Bii-care-instig%C4%83-la-ur%C4%83>;

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there was not capacity for such a large number of users, but also as a result of the blackouts throughout the territory of the Republic of Moldova caused by the bombing of the energy infrastructure in Ukraine in November 2022.

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

There is no express legal provision that guarantees open, accessible and affordable internet. The access of any natural or legal person to electronic communications services accessible to the public is guaranteed throughout the territory of the Republic of Moldova, under non-discriminatory and confidential conditions.²⁴³ The providers of public electronic communications networks and/or services accessible to the public have the obligation to measure and publish the values of the administrative and technical quality indicators of the connections.²⁴⁴ Internet access in Moldova is relatively affordable²⁴⁵ and is accessible on mobile and landline networks in 98 per cent of Moldovan localities. The latest data shows that in 2020, the share of active mobile-broadband subscriptions was 58.8 per 100 inhabitants and 17.8 per 100 inhabitants for fixed broadband subscriptions. 99.9 per cent of the population is covered by 3G and 98 per cent by 4G/LTE mobile networks.²⁴⁶ Adequate high-speed home access to broadband internet is slightly above the EU27 average. In 2020, the cost of a data-only mobile broadband package was 0.48 per cent of GNI.²⁴⁷

There are already expanding advanced online services in such areas as business registration, electronic submission of documents for CSO registration and services related to judicial procedures and electronic petitioning, all with protection of personal data. The possibility to use a digital signature is open to everyone. CSOs are beneficiaries of some of the available services, including online financial reporting. Nevertheless, there are inconsistencies from public institutions in accepting electronic signatures. The Deputy Prime Minister for Digitalisation referenced cases of certain public entities, illegally and abusively, not recognising or accepting the use of electronically-signed documents.²⁴⁸ For instance, the judicial system does not accept documents signed electronically, although legislation provides for this option through the Integrated File Management Programme.²⁴⁹

²⁴³ Law on Electronic Communications, 241/2007, https://www.legis.md/cautare/getResults?doc_id=125279&lang=ro#.

²⁴⁴ https://www.anrceti.md/parametrii_de_calitate.

²⁴⁵ <https://www.itu.int/en/ITU-D/Regional-Presence/Europe/Documents/Events/2021/Regional%20Innovation%20Forum/Moldova.pdf>

²⁴⁶ UNDP Moldova, Compact on Digital Transformation of Moldova, 2021, <https://www.undp.org/sites/g/files/zskgke326/files/migration/md/Digital-MOLDOVA-ENG.pdf>

²⁴⁷ <https://www.itu.int/itu-d/reports/statistics/2021/11/15/affordability-of-ict-services/>.

²⁴⁸ <https://egov.md/ro/node/39495>.

²⁴⁹ Code of Civil Procedure 225/2003 Art. 171 Submission of documents through the Integrated File Management Programme, https://www.legis.md/cautare/getResults?doc_id=134150&lang=ro#.

The EGA has a digitalisation agenda²⁵⁰ which seeks to change the service delivery model to ensure that services are accessible to all citizens, both those in the country, and those abroad. In this regard, in 2022 it conducted a communication campaign²⁵¹ and training that addressed the digital divide to a limited extent.²⁵² The necessities of reducing the digital divide and of developing digital literacy are also addressed in the draft STDM 2030.

Public awareness on digital rights as such is essentially non-existent. AI/machine learning is not a topic of public debate. However, public institutions use several technologies such as face recognition systems at border control, traffic monitoring systems and may also use more advanced technologies in monitoring and surveillance, including machine learning. Still, there is no oversight mechanism for seeking remedies against violations of digital rights, and any suspicions of violation may only be subject to traditional legal mechanisms. ANRCETI is involved in some components, but only to the extent that the law regarding electronic communications is violated.

The lack of digital literacy among judges, prosecutors and lawyers, will also potentially affect the quality of the interpretations and decisions regarding violations of digital rights in the online environment.

Specific recommendations:

- The justice system should develop the proficiency of the digital literacy of judges, prosecutors and lawyers;
- The Government should develop an informal national platform for open dialogue (between state institutions, the business sector and CSOs) with the purpose of transferring expertise and skills in the area of digital rights;
- The Government should build policy-making capacities under the Deputy Prime Minister for Digitalisation and integrate a human rights-based approach;
- The Government should implement a uniform national digital skills development programme for increasing the level of digital literacy across the country;
- Public policies for the development of digital technologies should have reference to the human rights perspective;
- CSOs should adopt a proactive position in the promotion of digital rights;
- The Government should establish a state supervisory body with IT expertise; and
- The Government should involve CSOs in the development process of the STDM 2030.

²⁵⁰ <https://age.gov.md/ro/advanced-page-type/alfabetizare-digitala>.

²⁵¹ "Digital Moldova: Innovations for generations" campaign <https://age.gov.md/ro/node/39544>

²⁵² <https://age.gov.md/ro/content/campania-regandeste-ti-varsta-conectarea-sociala-si-digitala-tinerilor-si-varstnicilor-din>.

IV. KEY PRIORITIES

The overall situation for the CSO enabling environment in the Republic of Moldova did not change significantly in the period January-November 2022. There are four areas in which overall slight improvements have been observed: Access to Funding, Freedom of Peaceful Assembly, State-CSO Cooperation and Digital Rights. In three further areas - Right to Participation in Decision-Making, State Duty to Protect and State Support - there were improvements in either Law or in Practice.

The main achievements of the period include the adoption by the Parliament of the amendments to the Law on Philanthropy and Sponsorship, the approval by the Government of the Framework Regulation on the Non-reimbursable Financing Mechanism of Non-commercial Organisations, the adoption by the Parliament of the amendments on incrimination of crimes motivated by prejudice (formerly known as draft no. 301). The Public Utility Certification Commission resumed its activities after two years of inactivity and the CNESP, responsible for anti-Covid 19 pandemic restrictions, included three experts in the field of human rights to ensure compliance with human rights standards.

A number of concerns identified in the previous reports are still valid: lack of a strategic document regarding CSO development, deficiencies in the access to information and transparency in decision-making processes, lack of widespread models and rules for state budgeting at the local and central levels, privacy issues for activists and the lack of a clear perspective for digital rights.

Some actions have been initiated that could result in solving some of the problems, such as the initiation of a new draft law on access to information, the development of a new registry for CSOs and the drafting of a methodology for establishing the costs of social services.

The key priorities for the development of the CSO environment in the Republic of Moldova are as follows:

1. The State Chancellery should take responsibility for developing and implementing a new strategic document for the development of civil society, together with CSOs, that should also include actions not performed in the previous strategy (CSDS 2018-2020). Financial resources should be allocated to ensure the implementation of all the actions included and the Government and the Parliament should adopt the strategic document;

2. The PSA should develop a modern, interoperable State Register of Legal Units that will integrate CSOs and simplify the process of registration. The PSA should also provide for the possibility of an online registration procedure for CSOs, including the digitisation of PSA services, enabling the online registration of CSOs and the online issuance of any registration documents/certificates. The PSA should take into account the perspective of the needs of people with sensory disabilities. The register should also include filters and functionality features that would allow access to other public interest information on CSOs (such as membership, public benefit status, and percentage designation mechanism);
3. The Parliament/the Government should adjust the legal framework for public procurements with a legal mechanism for social contracting with clear instructions and a standard package of model documents and build knowledge in public institutions based on this mechanism;
4. Public institutions supported by the EGA should improve transparency and participation in decision-making by developing a unified online platform which would include updated information on legal initiatives at all stages and all amendments from introduction up to adoption;
5. LPAs and law enforcement should adopt non-violent and non-intrusive assistance and response procedures regarding peaceful assemblies based on the observance of human rights, including for critical and anti-government assemblies;
6. The SIS and Money Laundering Prevention and Combating Service should provide transparency in the process of assessment and monitoring of the vulnerabilities of CSOs to terrorism financing and allow the participation of CSOs in the process of identifying measures to address any identified issues;
7. The Parliament should increase tax benefits for philanthropic donations and sponsorship to a level that would provide real benefits for philanthropic activity;
8. The Government should adopt amendments provided by CSOs for the regulatory framework on social entrepreneurship in order to boost the development of this initiative;
9. The Parliament should amend the legal framework on access to public interest information based on the Council of Europe Convention, to ensure proactive publishing of information (not just on demand) and good internal management to guarantee correct implementation of the legislation; and

10. LPAs should increase transparency in decision-making by developing modules on their websites similar to those used by the Government (particip.gov.md) and establish local structures for dialogue with CSOs and participatory structures using existing good practices including District Participation Councils based on existing functional models.

V. METHODOLOGY

The CSO Meter supports regular and consistent monitoring of the environment in which CSOs operate in the Eastern Partnership (EaP) countries. It consists of a set of standards and indicators in 11 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 for both qualitative and quantitative comparison of the different areas of the enabling environment across the EaP countries and years. The proposal for the research 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 11 areas; (ii) enable tracking of developments/progress throughout the years per country; and (iii) compare the environments regionally.

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

The current report covers the period from January–November 2022.

Monitoring process

The report was prepared by the local partner of the CSO Meter project in the Republic of Moldova, Promo-LEX Association, following a joint methodology for all six EaP countries. It focuses on the changes that have occurred in the CSO environment in the Republic of Moldova during 2021-2022. The report reviews 32 standards that are part of the CSO Meter and provides recommendations for improvement in each of the 11 areas covered. The process included data collection, interviews, desk research, focus group type discussions, brief information exchanges and analysis of the collected information and of other studies on the CSO environment during the reference period.

The findings and conclusions of the study do not cover the working environment of CSOs from the Transnistrian region of the Republic of Moldova, which is outside the control of the constitutional authorities of the Republic of Moldova.

List of interviewed persons:

Diana Doroș (*Head of the Directorate for Coordination in the Area of Human Rights and Social Dialogue of the State Chancellery*), Mihail Drăgan (*Head of the Department of Registration and Licensing of Legal Entities*), Veronica Ignat (*Head of Section for Registration of Non-commercial Organisations, PSA*), Marina Bzovii (*Executive Director of the Moldovan National Association of ICT Companies*), Tatiana Puiu (*National Expert, Freedom House*), Vitalie Sprînceană (*Activist*), Vitalie Jereghi (*Strategic Development Specialist, National LEADER Network*), Rita Boaghi (*Regional coordinator, National LEADER Network*), Vitalie Zamă (*Lawyer, Lawyers for Human Rights*) and Vlada Ciobanu (*Moldova for Peace*).

Brief information exchange:

Viorel Furdui (*Executive director, Congress of Local Authorities from Moldova CALM*), Diana Dereveanco (*Civic activist*), Marcela Dilion (*Programme Manager, Keystone Moldova*), Vasile Pascari (*Chișinău municipality*), Lucia Stegărescu (*Secretary of the Certification Commission of the institutions hosting the volunteering activity, MECC*), Aurelia Isac (*Lead consultant, Directorate for Coordination in the Area of Human Rights and Social Dialogue of the State Chancellery*), Vadim Vieru (*Program director, Promo-LEX Association*), Oxana Brighidin (*Legal officer, Legal Resources Centre form Moldova*), Cristina Durnea (*Legal Expert Centre for Journalistic Investigations*), Mihaela Duca-Anghelici (*Legal Analyst, Promo-LEX Association*), Aliona Dumbrăveanu (*Lead Consultant, Ministry of Education and Research*), Marina Lașco (*Senior Consultant, Arts and Creative Industries Directorate, Ministry of Culture*), Vadim Vintilă (*Legal advisor, EGA*), Irina Popușoi (*APSCF*) and Anastasia Oceretnii (*PhD in sociology, university lecturer*).

This report was developed with the contribution of an Advisory Board that consisted of representatives of key local stakeholders to ensure that the findings and recommendations reflect the overall situation in the country:

- Andrei Brighidin (Director for Development, Monitoring and Evaluation, *East Europe Foundation*)
- Alexei Buzu (Executive Director, Centre ‘Partnership for Development’)
- Tudor Lazăr (Executive Director, *Centre for Organisational Training and Consultancy CICO*)
- Serghei Lîsenco (President, *Criuleni Debate Centre*)
- Sorina Macrinici (Programme Director, *Legal Resources Centre from Moldova*)
- Serghei Neicovcen (Executive Director, *Contact Centre*)
- Alexandru Postica (Strategic Development Adviser, *Promo-LEX Association*)
- Victoria Neaga (Project Manager, *Delegation of the European Union to the Republic of Moldova*)
- Stela Babici (Executive Director, *Youth Resource Centre “Dacia”*)
- Natalia Răileanu (President, *ProCimișlia Association*)

- Rodica Frecăuțanu (Executive director, *Caroma-Nord Association*)

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

Scoring process

The country researcher(s) and 10 Advisory Board members in Moldova assessed each Standard of the 11 areas of the CSO Meter tool in Legislation and in Practice. The final score of each standard was then calculated according to a formula in which the researchers score participates with 50 per cent, and the Advisory Board members' average score with 50 per cent. The score of each area is then calculated as the average value of the final scores of each standard and calculated and rounded with one decimal for presentation purposes.

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 for CSOs, while (7) is an extremely favourable (ideal democratic) environment for CSOs. For more information on the CSO Meter tool, the scoring process and calculation, please visit <https://csometer.info/>.

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