



ENABLING ENVIRONMENT FOR CIVIL SOCIETY DEVELOPMENT IN THE BLACK SEA REGION

Second Edition

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The opinions expressed in this report belong to and reflect solely the position of the author on the presented findings.



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I. EXECUTIVE SUMMARY

The Black Sea NGO Forum was launched in 2008 by the Romanian NGDO Platform – FOND. After several editions of the Forum, participants expressed the need for a more comprehensive and strategic approach to support civil society in order to contribute to a sustainable regional cooperation. Thus, in 2014, the process of creating a strategic framework for civil society cooperation in the Black Sea Region started with a consultation on the needs and challenges organisations face with regard to the environment in which they operate. The results of the consultations revealed the fact that having an enabling environment for civil society development was both a common need among the Black Sea Synergy countries and a condition that must be filled in order to increase regional cooperation among NGOs.

Therefore, a comprehensive study¹ was conducted on this matter in 2015 by research experts Tanja Hafner-Ademi and Milka Ivanovska from the Balkan Civil Society Development Network², with the support of FOND. The results of the study were presented at the 2015 edition of the Black Sea NGO Forum, where participants decided to include enabling environment for civil society as a cross-cutting priority in the newly adopted Strategic Framework.

Following this strategic direction, the current study is part of the efforts of continuously monitoring the environment in which civil society operates, both at national and regional level, with the purpose of raising awareness on the existing challenges and potential negative trends, but also to encourage the exchange of experience, best practices and lessons learnt in this matter.

The current study monitors the transformation processes of the civil society from the eight countries in the Black Sea Region, namely: Armenia, Azerbaijan, Belarus, Georgia, Moldova, Russia, Ukraine and Turkey.

The elaboration of the second edition **required seven months (June–December 2016)** during which **more than 40 research interviews were performed with civil society representatives from eight countries (online and face-to-face), as well as analysis of documents, strategies, and legislation (which regulate the activities and functioning of non-governmental organizations and donor organizations), official statements, conclusions and public institutions or civil society reports.** Also, a special **attention was paid to ongoing programs of various internal and external donors, who aim to support the development of organizational capacity of different categories of civil society**

1 Hafner, Tanja, Ivanovska Hadjievska, Milka, Enabling Environment for Civil Society Development in the Black Sea Region: Towards a Regional Strategy for Cooperation, Black Sea NGO Forum, Balkan Civil Society Development Network, Mapping Study, August 2015, www.blackseango.org/wp-content/uploads/2015/11/Report-Enabling-Environment-for-CSOs-in-the-Black-Sea-Region_final.pdf

2 Enhancing Enabling Environment in the Black Sea Region: BCSDN Team Presents a First Ever Regional Mapping Report, Balkan Civil Society Development Network, Tbilisi, November 04, 2015, www.balkanecd.net/enhancing-enabling-environment-in-the-black-sea-region-bcsdn-team-presents-a-first-ever-regional-mapping-report-2/

representatives, as well as various initiatives of these representatives. For this edition of the study, online and face to face interviews were conducted with representatives of non-governmental organisations (NGOs) from the Black Sea Region. The decision to focus on collecting more qualitative data, was taken in order to highlight the main trends and underlying causes behind the different contexts in which civil society from the region carries out its activity.

From the beginning, research activities revealed that, although NGOs in the Black Sea Region are developing in a dynamic space and adapting to the political, economic and social changes (legislation, conditions, and resources), local authorities are still reluctant to them. Priorities and interests have a different hierarchy, which makes it difficult to create a favourable environment for the development of NGOs. The problems faced by civil society are common for most of the countries included in this study. **There are some differences in legislation, public discourse and government behaviour, but most of the problems faced by the NGOs in the region can be addressed through a pragmatic approach geared towards achieving social and economic benefits. The biggest problems remain the lack of political will and of an education for social responsibility in order to find solutions to different types of challenges, risks and threats.**

Both studies from 2015 and 2016 underline the potential of various stakeholders and civil society actors to communicate and collaborate in joint initiatives (national and regional) or similar actions (best practices transfer and exchange of models and ideas) with a view to improving the environment for NGO development. Harmonising domestic legislation with international standards on the three fundamental rights that underpin this study – *freedom of association, freedom of assembly and freedom of expression* – is both the objective, but also part of the solution for developing a civil society based on democratic principles. The need to implement fiscal reforms remains, together with the regulation of international organizations and foreign donors, as well as the state's support for appropriate conditions for civil society development. Regarding funding sources, many NGOs that are not politically engaged prefer to apply for support to international donors. They perceive internal support from state budgets as an instrument of pressure and interference of public authorities in their activities. Mutual suspicion persists.

Despite that most countries in the region refer to international standards in their activity towards civil society, there is a lack of a common approach in dealing with similar problems, mostly caused by particular national contexts.

Other problems relate to how prepared are public authorities to collaborate with NGOs and to the NGOs – foreign donors relationship, the latter being often tempted to act as project implementers in these countries, thus reducing the number of opportunities for local NGOs. Local businesses and individuals generally have no 'tradition' of supporting NGO activities. Local businesses can be involved through volunteering or by transferring a percentage of income taxes to CSOs, but still, their participation is quite limited.

The most problematic aspect remains the approach towards the civil society at a national level. **Cooperation between civil society and national public institutions** is further hampered by the absence of documents that list the objectives and obligations of each party. Just a few countries included in this study promote and address the strategic development of civil society with the support of external partners and donors. The lack of strategic documents can be attributed both to governmental authorities, as well as to the consumers of such public policies. The competition for financial resources and the overlapping of NGO interests does not allow the parties involved to draft optimal models that would enable a strategic approach. Internal platforms, supported or not either by national public institutions or international programs, struggle to become

effective and the resources that they make available are not used to their full potential by the intended users. Civil society remains divided, incapable of promoting a unified national vision. Often this is caused by a limited organizational development capacity and human resource shortages. NGOs cannot afford to delegate representatives for public consultations and draft recommendations for various strategies and regulations.

Equally important remains the discussion about the quality of interactions between public institutions and civil society representatives regarding the recommendations made available to the authorities under different forms: public debates, expertise, or public policy recommendations. In some cases, governmental authorities are reluctant to organise public debates, citing concerns of national interest and security or the quality of the recommendations themselves. In this way, NGOs feel excluded from public debates and are not able to carry out their activity on equal terms with other actors in public consultation processes.

The current study follows the same research structure as the one developed in 2015. This decision was taken in order to make the material more accessible to those interested in the content of the report, but also to highlight the changes experienced by civil society within the Black Sea Region³.

Freedom of association – is still limited by governmental authorities in countries such as Belarus, Azerbaijan, and the Russian Federation. The authorities intervene through various methods and tools – including legislative initiatives – into the activities of civil society organizations. Restrictions on foreign funding are still in place. In addition to the restrictions identified in the previous study, there are several premises to suggest that this right will be obstructed in Turkey in the near future. The recent events that occurred in this state demonstrate several trends that limit freedoms, including the right to assembly and expression. Unlike in Ukraine, Georgia and Armenia, the procedure of registering an NGO in the Republic of Moldova still takes very long. The reason behind this is of bureaucratic, rather than political nature. On the other hand, experts from Armenia interviewed during the preparation of this study argue that corruption in public institutions has a negative impact on civil society development and hampers the registration procedure of NGOs and, by extension, the freedom of association. Progress in harmonising national legislation with international standards in the case of the freedom of association was registered in Ukraine.

Freedom of assembly and freedom of expression – even though these freedoms are included in most constitutions of the countries addressed in this study and despite the fact that their observance is also guaranteed by other normative acts, the situation has not improved much compared to 2015. Azerbaijan, Belarus, the Russian Federation and Turkey have kept the legislative provisions that restrict the time, place, and number of participants in the case of free assemblies. There were cases when even individual protests have been restricted, the majority being related to the promotion of political or human rights. Worrying trends were registered in Armenia during protests in April and July 2016. Law enforcement forces did not hesitate to use force against peaceful protesters. There have also been cases of intimidation of journalists (Armenia, July 2016; Republic of Moldova⁴, July, 2016), but also of violent attacks against them (the murder of Ukrainian journalist Paul Seremet, Kiev, July 2016).

³ Angela Gramadă, the author of the second edition of the study, is the President of the Experts for Security and Foreign Affairs Association, a think-tank based in Bucharest, Romania. She is also a researcher at the National School of Political Science and Public Administration, Bucharest.

⁴ Organizațiile de media cer organelor de urmărire penală să investigheze cazul jurnalistei Natalia Morari, Anticorupție. md, Chișinău, July 12, 2016, www.anticoruptie.md/ro/stiri/organizatiile-de-media-cer-organelor-de-urmarire-penala-sa-investigheze-cazul-jurnalistei-natalia-morari

In most of the states included in the study, television and other media publications are controlled by various political actors or oligarchs. They interfere with editorial policies and thus affect the quality of the published or broadcasted materials. The press is only partially free, and in some countries, journalism still remains a dangerous profession. Only a small number of publications succeed to protect their editorial independence. These publications are financed through international programs to which they have access because they are registered as NGOs.

As regards **the fiscal and taxation systems**, there have not been observed any significant improvements. The leaders in this field still remain the Republic of Moldova, Ukraine and Georgia. However, there are cases when laws cannot be enforced because they lack implementation mechanisms. Moldova recently amended the 2% law, which gives the possibility to redirect 2% of the income tax to a category of non-governmental organizations or religious groups. The recent amendments to the 2% law were intensely debated by civil society in Moldova. In September 2016, the Government of the Republic of Moldova elaborated the implementation mechanism of this law.

State financial support is still limited, due mostly to the socioeconomic context or political situation in each state. There are programs that support the activities of non-governmental organizations which can be accessed relatively easily if the proposed projects refer to essential transformations of the political system. The reason why these are not very popular among civil society representatives is because they are often politicised, while the procedures lack transparency or do not fully correspond to the actual needs of NGOs. In Russia, the number of programs and public institutions that grant funding to NGOs has increased. These programs aim to replace the external funding that Russian NGOs cannot access because of their national legislation and the “foreign agent” label. The situation remains complicated and complex in other countries such as Belarus, Azerbaijan and Turkey.

Volunteering is still an important subject on the civil society agenda. There has been some improvement in what regards the adoption of legislation that regulates volunteering in Ukraine. Moreover, it was the civil society that insisted over the adoption of this law. Because of the rapidity with which this phenomenon has developed after EuroMaidan, and under the influence of the internal political processes and on the onset of the military operations deployed in Eastern Ukraine, public authorities could not avoid adopting legislation that regulates volunteering.

The relationships between NGOs and foreign donors still remains a challenge. On one hand, certain governmental authorities impose restrictions in terms of accessing external funds in countries such as Azerbaijan, Belarus and Russia. On the other hand, there is an insufficient understanding of civil society needs in the Black Sea Region. There are, however, other less discussed topics when studying the conditions and the environment in which NGOs operate. For example, there is the practice of certain donors to undertake feasibility studies on the internal needs of the countries in the region, after which they implement projects with external experts only, without the involvement of local civil society. Consequently, civil society representatives treat with scepticism the good intentions of potential donors. Most non-governmental organizations agree to take part in consultations for developing strategies and identifying thematic priorities. Participation in such discussion benefits NGOs, as they gain visibility at national and international levels.

II. METHODOLOGICAL NOTE: RESEARCH SCOPE, DATA GATHERING AND ANALYSIS

The current edition of the study on the enabling environment for civil society in eight states of the Black Sea Region was developed during June–December 2016. In order to achieve the established objectives, test hypotheses and observations of the evolution of NGOs' development, the main research tools used were face-to-face or online interviews. In other words, the goal was to use analysis tools that enable a qualitative approach of the studied phenomenon. Observation was also used, as well as the historical method, in order to highlight the main changes.

For the 2016 edition of the study, the following indicators from the previous edition were taken into account:

- The legal basis that guarantees fundamental freedoms: the regulatory framework that governs and guarantees the compliance and promotion of the three basic rights: freedom of association, freedom of expression, freedom of assembly;
- The legal framework that assesses the financial sustainability of NGOs: financial support from the state budget, service delivery, volunteer policy;
- The interaction between public institutions – NGOs: the legal framework for promoting public policies and practices of cooperation between different public institutions and NGOs, as well as development strategies of civil society, and participation in decision-making processes;
- The interaction between foreign donors – civil society: the legal framework for regulating the mechanisms that provide financial support for civil society actors, a forum for dialogue and consultation with civil society.

In this edition of the study, the focus was on the above-mentioned category of indicators and the transformation through these have undergone. The objective was to highlight the changes and both the positive and negative trends, which may have an impact on civil society development in the countries of the Black Sea Region.

During the investigation phase (which represented the first stage of the research) the following documents were consulted: legislation, strategies and other policy proposals, national and international reports which relate to civil society. The investigation phase – which consisted of monitoring publications and web pages of various non-governmental organizations, public institutions and donor organizations, as well as the initiatives of implementing projects and supporting civil society – contributed to the preparation of the research interviews with experts. During the seven months, small analysis were developed concerning the way in which the freedom of association, assembly and expression are respected in each of the eight countries included in the project.

One of the established objectives for the current edition of the study was to identify thematic areas of regional cooperation – areas in which the Black Sea NGO Forum could help strengthening the interaction and the capacity of experienced NGOs to multiply this experience at a wider, regional level, by providing a discussion platform for participating non-governmental organizations. The interviewed experts mentioned several topics that might turn into concrete initiatives and projects. Moreover, several recommendations for the Romanian public institutions of this profile (that also promote programs and projects to support the civil society in the Black Sea Region) could be identified.

II.1. RESEARCH DESIGN

In this year's study, the research was built using written sources – legislation, reports, strategies, studies, recommendations, conclusions of public debates and consultations between NGOs and public institutions – as well as by conducting research interviews with civil society experts, members of different NGOs, activists and representatives of civic initiatives either registered or pending registration. Interviews were conducted online or during face-to-face meetings. Some interviews were informal, in order to ensure the anonymity of experts. Also, an emphasis was placed on gathering different opinions and identifying representatives of NGOs in fields as different as possible, organisations that actively participate in public debates and have more than 10 years of experience, as well as NGOs which have just undergone their registration.

II.2. OVERCOMING (PREVIOUS) CHALLENGES

In order to have the best outcome using resources efficiently, the second edition of the “Report on Enabling Environment for Civil Society Development in the Black Sea Region”, had the goal to identify timely changes which have occurred in the NGO environment, internal political and economic conditions which affect civil society or the relationship between NGOs and public institutions or foreign donors. As opposed to the previous study, this time the access has been extended to information available in Russian and Ukrainian languages. Therefore, it was possible to use documents from original sources (regulations, internal reports, statements and position papers) whereas the number of Russian speaking experts interviewed in their native language has also increased. More than 40 interviews were conducted during the seven months of preparation for this study. These interviews had both a formal and informal character, with a strong commitment coming from the authors of this study to preserve the anonymity of the experts who contributed to its development.

III. ENABLING ENVIRONMENT FOR CIVIL SOCIETY DEVELOPMENT IN THE BLACK SEA REGION

III.1. FREEDOM OF ASSOCIATION

In order to have the best outcome using resources efficiently, the second edition of the “Report on Enabling Environment for Civil Society Development in the Black Sea Region”, had the goal to identify timely changes which have occurred in the NGO environment, internal political and economic conditions which affect civil society or the relationship between NGOs and public institutions or foreign donors. As opposed to the previous study, this time the access has been extended to information available in Russian and Ukrainian languages. Therefore, it was possible to use documents from original sources (regulations, internal reports, statements and position papers) whereas the number of Russian speaking experts interviewed in their native language has also increased. More than 40 interviews were conducted during the seven months of preparation for this study. These interviews had both a formal and informal character, with a strong commitment coming from the authors of this study to preserve the anonymity of the experts who contributed to its development.

Freedom of association in each of the eight states in the Black Sea Region is guaranteed by national and international legislation (constitutions and other laws). **The difference lays in the de facto environment created by the authorities concerning promoting and protecting this freedom. Difficult situations still remain in Belarus, Azerbaijan and Russia. Recent events in Turkey (the coup attempt in the summer of 2016)⁵ may result in the obstruction of laws, where previously certain limitations of freedom of association were documented.** Often the situation is influenced by the political regime promoted by governmental authorities. There are still cases of refusing to register NGOs without arguments, high registration fees or unfair calls for competition, all through which pro-government NGOs are promoted.

Positive trends in terms of the freedom of association are recorded in Armenia, Georgia, Moldova and Ukraine. Most interviewed experts confirmed that they encountered no obstacles when they decided to fund an NGO. The procedure is clear and simple both at national and local level. On the opposite side is the procedure of dissolving non-governmental organizations. Consequently, there is an artificial increase of the total number of NGOs.

In October 2015, several laws governing foreign funding of NGOs were adopted in Azerbaijan. This is one of the most important changes that occurred in this country since the first edition of this study. The adoption of this legislation has an impact on the financial sustainability of NGOs in Azerbaijan. Major restrictions are still registered in Belarus and Russia on the same matter.

⁵ Turkey coup attempt: State of emergency announced, BBC News, July 21, 2016, <http://www.bbc.com/news/world-europe-36852080>

Moreover, the financial aspect of civil society activity requires serious improvement. The law that regulates the reporting of expenditures and revenues of NGOs needs to be reviewed. In the majority of countries included in this study, there is still a debate about the content of the draft law that should match the size and profile of NGOs.

Another common phenomenon is the interference of governmental authorities in the work of NGOs. This interference occurs in different forms. Policy makers also demonstrate a lack of vision when discussing ways of monitoring, controlling or directly influencing the impact of activities promoted by civil society.

However, there are some states where authorities insist on maintaining different platforms for dialogue with civil society. These can take various forms: regular meetings and discussion platforms for cooperation or joint action programs to support and encourage social initiatives. This dialogue is often a requirement imposed by external partners, which is included in documents such as the Association Agreements with the EU or other international treaties signed and ratified by the national parliaments of these eight states.

ARMENIA

According to official data from the Ministry of Justice, there were 4718 registered NGOs in Armenia, in 2016⁶. Experts estimate that only around 20 percent of registered non-governmental organizations are active⁷. On September 29, 2015 the Armenian government approved the draft law “*On making supplements and amendments to the RA Laws On non-governmental organisations, On foundations and a number of other RA laws*”⁸. The draft law is the result of long debates which lasted for more than seven years⁹. **The new legislative changes aimed to simplify the procedure for registering non-governmental organizations.** Thus, NGOs will have the opportunity to submit online the required documents for public institution review.

According to the Minister of Justice, Arpine Hovhannisyan: “*https://www.eregister.am/ system will enable NGOs to get registered on-line. Besides, all the offices of the Services Division of the Agency of State Register of Legal Entities under the RA MoJ will be provided with a possibility of accepting documents. Thus, the administrative action of state registration of NGOs will be simplified and clarified relieving the organisation getting registered from unnecessary procedures*”.¹⁰ The debates about the new NGO law continue. A debate was held on the package of the draft law on Armenian non-governmental organizations at the beginning of October, 2016, during a four-day session of the National Assembly. According to an Armenian newspaper, the discussion on this law was one of the problematic issues¹¹. However, at the end of the day, the new amendments adopted by the Parliament are mostly welcomed by the majority of NGOs. According to the content of the new regulations, NGOs that are funded only from the state budget can be now subject to external auditing.

6 The data were kindly provided by the Ministry of Justice to a representative of civil society in Armenia. Interview with civil society expert from Armenia, August 2016.

7 The 2015 CSO Sustainability Index for Central and Eastern Europe and Eurasia, USAID, 2015, p. 22, www.usaid.gov/sites/default/files/documents/1861/EuropeEurasia_CSOSIReport_2015.pdf#page=29

8 Government approved draft RA Laws ‘On making supplements and amendments to the RA Laws “On non-governmental organisations”, “On foundations” and a number of other RA laws’, the Ministry of Justice of the Republic of Armenia, Yerevan, October 29, 2015, www.justice.am/en/article/1408

9 Armenia, Nation in transit 2016, Freedom House, 2016, www.freedomhouse.org/report/nations-transit/2016/armenia

10 Government approved draft RA Laws ‘On making supplements and amendments to the RA Laws “On non-governmental organisations”, “On foundations” and a number of other RA laws’, the Ministry of Justice of the Republic of Armenia, Yerevan, October 29, 2015, www.justice.am/en/article/1408

11 “The concerns that the degree of control of the government over the NGOs will increase are dispelled.” Artur Sakunts During the four-day session, Aravot, Yerevan, October 08, 2016, <http://en.aravot.am/2016/10/08/182036/>

Public organizations and foundations are still the main legal forms of civil society. **There are no cases of discrimination when registering an NGO. Yet, there is some evidence that suggests encouraging the use of the services of law bars to prepare necessary documents, even though templates of all these documents are provided:** *“However, unless well-known public figures participate as founders in a newly formed NGO, the founding groups are required to use services of law firms associated with the Ministry of Justice in order to write the NGOs statute and do other required paperwork ‘correctly’.”*¹² There are situations where public employees require the replacement or reformulation of documents without presenting a solid argument, extending the registration procedure to the detriment of the people wishing to engage in civil society development activities.

Civil society representatives also noted an attempt from the authorities to encourage the diaspora to be more involved on national issues in Armenia. The reason behind this is of a financial nature. The Armenian diaspora has more resources at its disposal and governmental authorities need them to cover more domestic social needs.

Civil society takes over some of the responsibilities of public institutions, providing several types of services, and the government enters an area of “social comfort” because it is not necessary to allocate resources to perform their duties. At the end of the day, all parties involved in this process will be satisfied with the results: jobs are created, services are rendered and taxes are paid to the state budget. Armenian experts believe that simplifying the registration process by introducing online registration is such a measure.¹³ It is relatively easy to register an NGO in Armenia. Citizens have access to legislation, but also to different types of necessary documents: *“(There is) no need for capital either for registration or bank account. It is required only an identity card and the decision to create the NGO. It is not mandatory to be an Armenian citizen. Even foreigners can be founders. The registration procedure it is very simple.”*¹⁴

Today, it is very important to notice that governmental authorities are still promoting, supporting and inviting to public debates less critical NGOs¹⁵. This is done to show the interest of political elites to engage in discussions and public consultations, processes which are specifically asked for by external partners. Such debates do not contribute to the improvement of the content of public policies, but rather legitimise certain actions of governmental authorities. In such conditions, it is difficult to establish certain rules and norms and ask for them to be respected by all actors involved in this dialogue. To survive, NGOs comply with the conditions imposed and do not generate solutions to improve the environment for civil society development.

Also, the segregation of NGOs according to the type of interest (economic or political interest) shows a lack of a common vision for the civil society development in Armenia. This, experts¹⁶ say, can have a negative impact on the future of the concept of a “developed civil society”. However, the lack of vision is not just an Armenian issue. It is a regional problem, which can be encountered in most of the countries included in this study.

12 Interview via email with political science expert from Armenia, June 2016.

13 Interview with an NGO leader from Armenia, June 2016.

14 Ibidem.

15 Several civil society representatives from Armenia have criticized the governmental authorities for organizing public debates about the amendments to the text of the Constitution only with convenient NGOs. The referendum approving constitutional amendments took place in December 2015. Armenian Election Monitoring Groups protest against pushing forward constitutional reform by the presidential administration, European Platform for Democratic Elections, October 5, 2015, www.epde.org/tl_files/EPDE/EPDE%20PRESS%20RELEASES/Armenian_Election_Monitoring_Groups_protest.pdf

16 Interview with a human rights defender, Yerevan, October 2016.

AZERBAIJAN

Civil society development in Azerbaijan remains a sensitive topic. In the first edition of the study, authors note that the number of NGOs registered for 2015 was not available.¹⁷

According to the International Center for Not-for-Profit Law, in 2013 there were 2700¹⁸ registered NGOs in Azerbaijan and 1000 initiative groups, officially unregistered, but which promote a several social activities.¹⁹ According to the Ministry of Justice, cited in the USAID CSO Sustainability Index, by the end of 2015 the number of registered civil society organisations (CSOs) – including non-governmental organizations (NGOs, which include foundations and public unions) and other entities – was 4,100²⁰. **The most recent changes that regulate the activity of civil society and the freedom of association were introduced in December 2015:**

*”On December 28, 2015 the Ministry of Justice (MoJ) adopted Rules on Studying the Activities of Non-Governmental Organizations, Branches or Representative Offices of Foreign Non-Governmental Organizations, which were published on February 13, 2016. The Rules establish the procedure for the MoJ to inspect the activity of local NGOs and foreign NGOs with registered offices in Azerbaijan. There is concern that the Rules grant very broad powers to the MoJ to conduct inspections with very few guarantees for protecting the rights of NGOs.”*²¹

The new change to the procedure provides public institutions with the instruments and mechanisms necessary for more access to the internal affairs of NGOs, an aspect which affects civil society in implementing projects. Regulatory requirements that limit social involvement initiatives remained in force:

*”The domestic laws do not prohibit NGO operation without state registration, in practice, NGOs cannot operate effectively as they cannot receive foreign funding, open a bank account and enjoy other prerequisites of a legal entity.”*²²

Basically, initiative groups have no real chance to implement projects and generate solutions for different current problems. The Azeri authorities’ attitude towards civil society had a negative impact on the international visibility of this state. Consequently, in May 2016, the Open Government Partnership (OGP), an international platform that actively supports the development of an enabling environment for civil society worldwide, has suspended the voting rights of Azerbaijan in the forum:

*”The Steering Committee of the Open Government Partnership today resolved that Azerbaijan will be regretfully designated as inactive in OGP, due to unresolved constraints on the operating environment for Non-Governmental Organizations.”*²³ This decision is based on the failure to comply with the principles and values assumed by Azerbaijani authorities in the OGP, stating very clearly that it refers to the governmental policy towards civil society.

17 Hafner, Tanja, Ivanovska Hadjievska, Milka, Enabling Environment for Civil Society Development in the Black Sea Region: Towards a Regional Strategy for Cooperation, Black Sea NGO Forum, Balkan Civil Society Development Network, Mapping Study, august 2015, pag. 19, http://www.blackseango.org/wp-content/uploads/2015/11/Report-Enabling-Environment-for-CSOs-in-the-Black-Sea-Region_final.pdf

18 The data are from 2013 and make reference to the Ministry of Justice of Azerbaijan Republic. As mentioned in the first edition of this study, the data for 2014 are not public. The situation remains unchanged for 2015.

19 NGO Law Monitor: Azerbaijan, the International Center for Not-for-Profit Law, March 23, 2016, <http://www.icnl.org/research/monitor/azerbaijan.html>

20 The 2015 CSO Sustainability Index for Central and Eastern Europe and Eurasia, USAID, 2015, pag. 32, www.usaid.gov/sites/default/files/documents/1861/EuropeEurasia_CSOSIReport_2015.pdf#page=32

21 Ibidem.

22 Interview via email with civil society expert from Azerbaijan, June, 2016.

23 Media Briefing: Azerbaijan Made Inactive in Open Government Partnership, OGP Support Unit, Cape Town, South Africa, May 4, 2016, <http://www.opengovpartnership.org/blog/anonymous/2016/05/04/media-briefing-azerbaijan-made-inactive-open-government-partnership>

Another important legislative amendment in Azerbaijan since 2015 is related to the adoption of legislation which sets out the conditions for obtaining and awarding foreign funding. On October 21, 2015, the Cabinet of Ministers adopted a decree *“On registration of contracts on provision of services and works at the expense of foreign financial sources by non-governmental organizations, as well as branches or representative offices of foreign non-governmental organizations”*.²⁴ Shortly after this decision, on October 22, 2015, the Cabinet of Ministers approved the *“Procedure on obtaining the right to give a grant by foreign donors in the territory of Azerbaijan.”*²⁵ According to the decision, international organizations and their representatives, as well as foreign governments and their representatives may act as donors after obtaining the right to give a grant in the Republic of Azerbaijan.²⁶

In June 2016, a new report about the situation of civil society in Azerbaijan was published. The authors are independent experts concerned with the environment in which the Azeri civil society is bound to work. **According to the study, the situation remains difficult in Azerbaijan, confirming that problems persist: seizure of NGOs’ bank accounts and accounts of NGO leaders; interrogation of NGOs leaders and staff members; tax inspections into NGOs’ financial activities leading to heavy penalties; arrests and conviction of leaders of prominent human rights NGOs; discriminatory verification of documents and physical checks of NGO leaders and staff members at border crossing points; travel bans imposed on civil society members; closure of local and foreign NGOs.**²⁷

After the constitutional referendum in September 26, 2016, civil society from Azerbaijan was exposed to a new wave of repressions²⁸. After his visit to Azerbaijan in September 2016, the Special Rapporteur on Human Rights Defenders considered that over the last two to three years, civil society in Azerbaijan has faced the worst situation since the independence of the country²⁹. According to Human Rights House, there are still dozens of Azerbaijan NGOs, together with their leaders, employees and their families who have been subject to administrative and legal persecution, including here the seizure of their assets and bank accounts, travel bans, enormous tax penalties and even imprisonment³⁰.

On October 21, 2016, Ilham Aliev signed an important decree for civil society development in Azerbaijan: *“On Simplification of Registration of Foreign Grants in Azerbaijan”*³¹ (the decree). According to the decree, from January 1, 2017, a “one-stop-shop” approach will be applied to the procedure of registering foreign grants in Azerbaijan. According to the content of the new regulation: *„The Cabinet Ministers is tasked to ensure the simplification of procedures for obtaining the conclusion on the financial & economic expediency of the grant, including its implementation at the request of the donor and*

24 Decision # 337 of the Cabinet of Ministers of the Republic of Azerbaijan 20 November 2015, City of Baku, 21 October 2015, On “Rules on registration of service contracts on provision of services or implementation of work by NGOs, as well as by branches or representations of foreign NGOs from foreign sources”, Unofficial translation by MG Consulting, www.icnl.org/research/library/files/Azerbaijan/Decision.pdf

25 Interview via email with civil society expert from Azerbaijan, June, 2016.

26 Azerbaijan approves procedure on obtaining right to give grant by foreign donors, News.az, December 04, 2015, www.news.az/articles/society/103282

27 Ismayil, Zohrab, Remezait, Ramute, Shrinking Space for Civil Society in Azerbaijan, June 2016, pag. 20, www.caucasusinitiative.org/researchs/2/shrinking-space-for-civil-society-in-azerbaijan

28 Harassed, Imprisoned, Exiled Azerbaijan’s Continuing Crackdown on Government Critics, Lawyers, and Civil Society, Human Rights Watch, October 20, 2016, www.hrw.org/report/2016/10/20/harassed-imprisoned-exiled/azerbajians-continuing-crackdown-government-critics

29 Azerbaijan: “Rethink punitive approach to civil society” Following the constitutional referendum: Need for further European Union human rights leadership Briefing note by the Human Rights House Foundation Due to the risk of reprisals, names of Azerbaijani partner organisations, which have contributed to this report, was not indicated – note of the authors of the report. September 2016, www.google.ro/url?sa=t&rct=j&q=&esrc=s&source=web&cd=11&cad=rja&uact=8&ved=0ahUKEwj9892l0uJPAhWHXSWKHTlhDQ84ChAWCBkwAA&url=http%3A%2F%2Fhumanrightshouse.org%2Fnoop%2Ffile.php%3Ffid%3D21901%26d%3Dvyopzpgx-&usg=AFQjCNHhYo08uv-_3cgPjOfJu3ul3g8VfQ&sig2=OX5Uju5JGarQfvs7Y49cQ

30 Ibidem.

31 Civic Freedom Monitor: Azerbaijan, update from October 21, 2016, www.icnl.org/research/monitor/azerbaijan.html

*recipient.*³² It is still not clear what does the “one-stop-shop” procedure mean, but there are opinions that the new regulations will not improve the environment for NGOs. Without the economic expertise of public experts, grants will not reach beneficiaries.

In conclusion, freedom of association in Azerbaijan is still undermined and civil society cannot develop nor benefit from a favourable environment. The legal framework that regulates NGOs activities is contrary to international standards and norms, even if government authorities have adopted new laws in this regard and have shown openness to criticism, by releasing from arrest several activists and journalists in 2016.

BELARUS

Belarus still has the most restrictive laws on freedom of association in the Black Sea Region. According to the national legislation, this freedom is guaranteed and protected by the Constitution³³. However, in reality this freedom is restricted through different rules and instruments.

According to the last USAID CSO Sustainability Index, on January 1, 2016, there were 2,665 public associations registered, including 225 international, 716 national, and 1,724 local associations; as well as 41,011 registered branches of public associations. Other registered entities include 37 trade unions, 23,139 labour unions, 34 unions (associations) of public associations, 164 foundations (15 international, 5 national, and 144 local foundations), and 7 national governmental public associations.³⁴

The presidential elections in the fall of 2015 influenced the discourse and the attitude of the government regarding the need of change in civil society. Actions taken by the government in Minsk before and after the elections may not always be appreciated as positive, although foreign partners insist on a radical change of strategy towards NGOs and the political opposition.

The most restrictive legislative provisions regarding freedom of association (including registration and the procedure for obtaining the documents necessary to become a functional NGO) remained in force. The first significant regulatory change was made in August 2015 According to a report published by the Assembly of Pro-Democratic NGOs and the Legal Transformation Center of Belarus³⁵, the Presidential Decree No. 5 dated August 31, 2015 on Foreign Donations, with entered into force on March 4, 2016, in general left the previous procedure on foreign donations in place, but certain bureaucratic barriers have been removed³⁶.

These legislative changes were unilateral and there were no preliminary public debates involving representatives of civil society. According to international standards, legislative regulation of civil society access to funding is part of the insurance system and the protection of the freedom of association. In Belarus, public authorities can prevent the distribution or access to certain foreign funds arbitrarily, if a decision is taken in this regard. Moreover, non-governmental organisations **need special approval to access funds whose destination (profile or objective) is not included in the list of priorities**

32 In January Azerbaijan to introduce one stop shop in foreign donor grant awarding, ABC.az, Baku, October 21, 2016, www.abc.az/eng/news_21_10_2016_99579.html

33 BTI 2016, Belarus Country Report, BTI Project, 2016, pag. 8, www.bti-project.org/fileadmin/files/BTI/Downloads/Reports/2016/pdf/BTI_2016_Belarus.pdf

34 The 2015 CSO Sustainability Index for Central and Eastern Europe and Eurasia, USAID, 2015, pag. 51, www.usaid.gov/sites/default/files/documents/1861/EuropeEurasia_CSOSIRReport_2015.pdf#page=51

35 Issued Review Of Freedom Of Associations In Belarus, Assembly of NGOs of Belarus, February 29, 2016, www.belngo.info/2016.issued-review-of-freedom-of-associations-in-belarus.html

36 The previous procedure of foreign donations requiring mandatory pre-registration (of foreign donations) and providing for criminal liability for violation of this procedure is unchanged.

approved by the Property Management Directorate under the President of the Republic of Belarus. In the list of foreign donors Belarusian citizens who work or permanent residence outside the country of origin were also included.³⁷

Anonymous donations from abroad are prohibited. The current legislation has become more permissive regarding anonymous donations from citizens with permanent residence in Belarus. Donations from the Russian Federation have special legal provisions. Previously, they were allowed in a selective manner. With the change in the regional political context, financial resources of Russian origin are no longer supported.³⁸

The end of 2015 and the beginning of 2016 were marked by the promotion of a less restrictive policy towards civil society. However, the openness shown by international forums to governmental authorities in Belarus is not caused by a change in the official discourse on civil society, but rather geopolitical reasons, the former being unable to generate sufficient pressure on the current political elite in Minsk as part of interests which are distinct from those of civil society.

At the beginning of 2016 there have been several cases in which non-governmental organizations were denied registration. The organisations in questions have enlisted in their constitutive documents goals that were not included in the list of government priorities for civil society. The list included activities related to the promotion of art and other types of cultural projects, **but omitted activities related to education, youth policies or gender policies.** Consequently, the founding members of the NGOs which were denied registration decided to organize protests. These protests were not authorized³⁹ and the participants were sanctioned with fines, detentions, administrative sanctions.

At the end of 2016, the environment in which NGOs in Belarus operate is still restrictive. A well-known Belarusian local rights group, Viasna, documented the continued violation of the freedom of association in Belarus. Among these violations, one example was the authorities' rejection of an application for registration from a local civil society organization: the Committee for the Support of Entrepreneurship Solidarity⁴⁰. The Ministry of Justice denied their request for formal registration as an association, citing minor typing errors on their application. Thus, the phenomenon of the "emigration" of Belarusian civil society in the neighbouring countries is still very present.

Generally speaking, it is not complicated to ensure the financial sustainability of Belarusian NGOs registered abroad. Not all donors require Belarusian NGOs to be registered in Belarus. There are cases when donors understand that for some Belarusian non-governmental organisations, it is easier to be registered outside the country⁴¹, otherwise it would be difficult for them to fulfil their mission. But lately, more international funds and donor organisations require official registration in the country of origin – Belarus – as a condition for awarding grants. The internal procedures take too long, are complex and are not always transparent⁴². For many people, it is difficult to register their organisations on time or their registration is finally completed when the project

37 In Russian Federation there are cases where certain NGOs were included in the register "foreign agents" after getting financial support from the Russian citizens living outside the Russian Federation. Moreover, these NGOs were fined. We are seeing takeover restrictive or repressive practices against civil society. As a consequence, the interest of citizens for volunteer activities or requiring greater civic participation is decreasing.

38 Belarus does not recognize Crimea as a part of Russian territory. Belarusian officials have repeatedly denounced Moscow's policy of aggression against Ukraine and mentioned several possible dangers and threats against national interests. The limitation of Russian funds in the Republic of Belarus is a political argument.

39 Freedom of Association and Legal Conditions for Non-Profit Organizations in Belarus. Monitoring for the I quarter of 2016. Review period January 1 – March 31, 2016, Legal Transformation Center, Assembly of Pro-Democratic NGOs of Belarus, <https://drive.google.com/file/d/0Bwh6rJZ1JOWsa1ZxT0JZSWJlc3c/view>

40 Human Rights Situation in Belarus: October 2016, Viasna, Brest, October, 2016, <http://spring96.org/en/news/85351>

41 Online interview with Polish expert, December, 2016.

42 Online interview with representative of non-governmental organization from Belarus, December, 2016.

should have already ended. Belarusian authorities need to understand that simplifying the procedure of NGO registration and also the procedure for awarding grants is a must.

GEORGIA

The development of civil society in Georgia can be considered as one of the most dynamic, not only in the South Caucasus, but also in the Black Sea Region. Civic involvement has become a constant phenomenon after 2003. But, like in other countries from the region, the development of civil society is sometimes dependent on political processes and only intensifies when socio-economic discrepancies occur, as a result of the instability of macroeconomic indicators. Unlike civil society in other countries from the region, Georgian civil society is still strong and committed to extensive monitoring of public authorities⁴³. Since 2003, there has been a continuous regeneration of civil society in Georgia, which has produced concrete results. What is lacking from the part of Georgian civil society at the moment is a clear communication strategy with clear objectives towards the authorities elected in October 2016. Moreover, representatives of human rights organisations in Georgia believe that substantial deviations are unlikely when it comes to the respect of the freedom of association, of assembly and of expression. Political actors know well the ability of the Georgian society to protest. Civil society tries to find platforms for cooperation with the authorities, tries to find solutions and turns to external experts: *“We criticize the government, but we are not persecuted for that, as it happened previously.”*⁴⁴

Thus, civic responsibility is directly proportional to the number of social and political challenges at a time: *“According to the National Agency for Public Registry (NAPR) under the Ministry of Justice, there were at least 21,660 non-profit organizations registered in Georgia in 2015, up from 20,206 at the end of 2014. Annual growth is a result of an easy registration process and an extremely complicated liquidation process.”*⁴⁵

The legislative provisions that regulate the activity of NGOs make it difficult to effectively manage the large number of organisations. Firstly, the experts from Georgia are arguing that the criteria to record the official number of active NGOs are not clearly specified. Associations and foundations are included among non-governmental organizations. Some official reports also include here cultural unions⁴⁶. **There are also many unregistered initiative groups. This is largely due to citizen awareness of the need to engage in civic actions on a voluntary basis⁴⁷. On the other hand, winding up an NGO still remains quite complicated and bureaucratic.** In this case, legislative changes were not made in this regard from the first edition of this study. Very often and not only in Georgia, costs concerning the procedure of winding up an NGO are high. This is one of the explanations for the large number of non-governmental organizations registered in this state.

However, the provisions that regulate the activity of non-governmental organizations in Georgia can be considered the most permissive in the South Caucasus. The legal framework facilitates the active involvement of citizens and civil society in general.

43 Interview with expert of an international donor organisation, Bruxelles, December 2016.

44 Interview with leader of human rights protection organization, Tbilisi, November, 2016.

45 The 2015 CSO Sustainability Index for Central and Eastern Europe and Eurasia, USAID, 2015, pag. 109, www.usaid.gov/sites/default/files/documents/1861/EuropeEurasia_CSOSIReport_2015.pdf#page=109

46 Interview with civil society expert from Georgia, August, 2016.

47 An example were the Tbilisi floods in 2015. Wading through the facts: Lessons from the Georgia flood, United Nations Development Programme, Tbilisi, July 19, 2015, www.undp.org/content/undp/en/home/blog/2015/7/1/Wading-through-the-facts-Lessons-from-the-Georgia-flood.html

REPUBLIC OF MOLDOVA

According to the data published by the State Register of Non-Profit Organisations, on December 20, 2016 there were 10891 registered NGOs in Moldova⁴⁸. Access to public information is guaranteed by law and anyone interested in studying civil society has access to this type of information. Unlike in other countries where a prior request to public institutions is needed or the access to information is intentionally restricted, Moldova had registered some progress in this regard.

Freedom of association in the Republic of Moldova is guaranteed by the Constitution adopted on July 29, 1994 and is regulated by the “*Law on Non-governmental Associations*”, adopted in 1996⁴⁹. This law was republished with some amendments in the Official Journal, containing some elements of harmonisation of national rules with international standards on the development of NGOs. According to current legislation, it is sufficient for two persons or legal persons to create a non-profit organization. The access to the information which regulates the functioning of NGOs is ensured by state authorities, in this particular case this role belonging to the Ministry of Justice.

The Ministry of Justice has made available to citizens a special web page dedicated to the associative environment where both legislation regulating this field and templates of statutes necessary for the registration process of an NGO⁵⁰ can be found. The objective was to facilitate both the registration procedure for NGOs and civil society development in general.

The registration procedure takes longer than in other countries because the same public institution is in charge with the registration of political parties.

Most representatives of non-governmental organisations appreciate the activity of the Ministry of Justice. If there are certain inconveniences for civil society, they relate to the legislation which regulates the internal management of NGOs. Experts interviewed for this study have reported that there are still no clear provisions on who can be a member of the board of an NGO and if they can be foreigners or not⁵¹. In some cases, legislation must be subject to rigorous harmonisation to current conditions. The public debate on this matter has been initiated. Several non-governmental organisations are involved in drafting a new law on NGOs to address the new challenges and realities.

The situation of civil society in **Transnistria** requires a separate approach. The interaction between the civil society on both sides of the Dniester River is increasingly more difficult now. There is a decreasing number of projects promoting democratic values and principles that encourage political participation in decision-making processes, human rights, external mobility and measures to improve the dialogue with similar organisations from Moldova. Transnistrian civil society representatives are monitored by the unrecognized authorities of the region. Their participation in various regional and international forums cannot be assessed as compelling nor efficient or results-oriented. Such a passive approach has its origin in the need of the people from the region for personal security and physical integrity.

People in the region have limited access to legal representation when the democratic principles and their rights are violated. Several non-governmental organisations from

48 The List of organizations, the State Register of Non-Profit Organizations, December 20, 2016, www.rson.justice.md/organizations

49 LEGE Nr. 837 din 17.05.1996 cu privire la asociațiile obștești (Republicată în temeiul art. IV al Legii nr.178-XVI din 20 iulie 2007, cu renumerotarea elementelor și corespunzător modificarea referințelor), published in Official Monitor, Nr. 153-156BIS, 02.10.2007, www.lex.justice.md/index.php?action=view&view=doc&id=325424

50 Non-commercial organizations, the Ministry of Justice of the Republic of Moldova, www.justice.gov.md/slidepageview.php?l=ro&idc=214

51 Interview with civil society expert, Moldova, July, 2016.

Moldova, which promote human rights and provide legal aid, cannot engage in any activity in the region. Their access to the territory is restricted by the unrecognized authorities from Tiraspol. The most famous case is that of the Promo-LEX Association: *“Since April 2015, Promo-LEX Association is prohibited from entering the Transnistrian region after the Security Committee (hereinafter referred to as KGB) accused the organization of “destabilizing the situation in the region”.*⁵²

Most projects with foreign funding have a social content. The donors are usually the embassies of Western states, the European Union, OSCE, Soros Foundation Moldova and UNDP, and sources of funding are not always published.

Moreover, there are certain circumstances in Moldova in which the NGO registration procedure is hampered by other public or private institutions. These include the Tax Inspectorate, the Ministry of Finance or Banks. At the beginning of 2016, Moldova changed the procedure for opening a bank account⁵³. In this regard, some NGOs have encountered problems when opening a bank account. Owning an IBAN is one of the conditions imposed by international donors when deciding to fund a particular project or initiative⁵⁴. Another problem affecting civil society development refers to insufficient regulation of the activity of unregistered or informal groups⁵⁵, which cannot compete with registered NGOs to fund their initiatives. Only a few international donors accept project proposals from unregistered or informal groups⁵⁶.

RUSSIAN FEDERATION

Between 2015 and 2016, the conditions for civil society development in Russia remained the same: restrictive legislation, limited freedom of association, prohibited foreign funding and failure to comply with international standards and norms in terms of creating an enabling environment for civil society development. However, the number of NGOs registered in 2015 is approximately equal to the number from 2014. According to the 2015 Civil Society Sustainability Index developed by USAID, in Russia there are about 227,445 registered NGOs by the Ministry of Justice⁵⁷. On December 20, 2016, 150 organizations⁵⁸ were included in the register of NGOs that are declared “foreign agents”. In the period August to October 2016 around 15 NGOs were included in this list.

The organisations included in this list may work in normal conditions. Their representatives have several options: liquidation, transformation or waiver of these organizations: *“By August 16, 2016, at least 22 groups have been shut down. Also, the Ministry has removed ITS “foreign agent” tag from 12 groups, acknowledging that they had stopped accepting foreign funding. Accordingly, on August 16, 2016, the official list of active “foreign agents” comprised 105 groups.”*⁵⁹ In September this phenomenon continued. Several NGOs were included in the foreign agent register, while others were administratively and financially sanctioned and their leaders were summoned.

52 Zubco, Alexandru, Observance of Human Rights in the Transnistrian Region of the Republic of Moldova 2015 Retrospect, Promo-LEX Report, Chişinău, 2016, pag. 3, www.promolex.md/wp-content/uploads/2016/04/doc_1456905480.pdf

53 Noile coduri IBAN pentru transferurile la bugetul naţional pot fi generate pe site-ul Ministerului Finanţelor, Chişinău, December 15, 2015, www.bancomea.md/news/noile-coduri-iban-pentru-transferurile-in-folosul-bugetului-pot-fi-generate-pe-site-ul-ministerului-finantelor

54 Interview with a member of a new registered NGO, Moldova, June, 2016.

55 Interview with a representative of an unregistered group from Moldova, June, 2016.

56 We support, European Endowment for Democracy, www.democracyendowment.eu/we-support/

57 The 2015 CSO Sustainability Index for Central and Eastern Europe and Eurasia, USAID, 2015, pag. 211, www.usaid.gov/sites/default/files/documents/1861/EuropeEurasia_CSOSIReport_2015.pdf#page=210

58 Сведения реестра НКО, выполняющих функции иностранного агента, Ministry of Justice of the Russian Federation, Moscow, December 20, 2016, www.unro.minjust.ru/NKOForeignAgent.aspx

59 Russia: Government Against Rights Groups, Human Rights Watch, August 16, 2016, www.hrw.org/russia-government-against-rights-groups-battle-chronicle

According to Russian legislation adopted in 2012, the decision to declare an NGO as a “foreign agent” belongs to the Attorney General. The Attorney General may consult with the Ministry of Foreign Affairs of the Russian Federation. Together they decide if an NGO complies or not with the current legislation. The procedure to declare a non-governmental organisation a “foreign agent” is relatively easy as it does not require a court decision. On the other hand, the procedure for exclusion from this registry was missing from the beginning. It was only when the Federal Law was adopted on March 08, 2015, that the grounds and procedure for exclusion of NGOs from the foreign agent register was specified. However, there is a limited number of NGOs who decided to trigger the procedure of exclusion from the foreign agent register. **Even after exclusion from the register, their data can be found on the dedicated website of the Ministry of Justice for foreign agents.**⁶⁰

Most representatives of international organisations withdrew or stopped their activity in Russia. This is because Russian NGOs were no longer free to apply for foreign funding and Russian authorities routinely adopted measures to limit the activity of donor organisations or representatives of international organisations active in the field of protection of human rights. Thus, through normative decisions the so-called list of “undesirable organisations” was elaborated, their presence being described as against national interests. Being included in this list, “undesirable organisations” cannot implement projects, especially if they relate to human rights protection and development of initiatives with political content. Moreover, the Ministry of Justice may decide to suspend the activity of an NGO or a foreign institution, if it is decided that they were engaged in political activities⁶¹. In a relatively short period of time, several international organisations have closed their representations in Moscow. The first organization that was included by the Ministry of Justice in the official black list of institutions whose activity is “unwelcome” in Russia was The National Endowment for Democracy (NED).^{62,63}

In January 2016, the Ministry of Justice added “*Transparency International – R*” to its register of non-profit organisations ‘acting as foreign agents’, as a result of the prosecutor’s investigation which took place at the end of January 2015⁶⁴.

On March 17, 2016, the National Democratic Institute (NDI) was included in the registry of “undesirable organizations”. In the official Statement of the NDI is mentioned the fact that: *“The real purpose of the Russian law on so-called “undesirable organisations” is to further isolate the Russian people. The legislation violates the basic rights of Russians to freedom of association and expression, which includes the ability to see, receive and impart information, including across borders.”*⁶⁵

Russian public opinion, influenced by speeches of governmental representatives, contributes to the continuing stigmatization of NGOs included in the foreign agent register. Representations of international organizations that decided not to cease their activity support exclusively social projects and relocated to the regions.⁶⁶

60 Бывшие «иностранные агенты» не могут вырваться из реестра Минюста, Vedomosti, January 29, 2016, www.vedomosti.ru/politics/articles/2016/01/29/625989-bivshie-inostrannie-agenti-ne-mogut-virvatsya-iz-reestra-minyusta

61 Ibidem.

62 Генпрокуратура признала “нежелательным” фонд в поддержку демократии, Radio Free Europe, Moscova, 28 iulie 2015, www.svoboda.org/archive/radio-svoboda-news/latest/16564/16564.html?id=27157075

63 «Национальный фонд в поддержку демократии» включен в перечень иностранных и международных неправительственных организаций, деятельность которых признана нежелательной на территории Российской Федерации, Minjust, Moscova, 29 iulie 2015, <http://minjust.ru/ru/press/news/nacionalnyy-fond-v-podderzhku-demokratii-vklyuchen-v-perechen-inostrannyh-i>

64 The Ministry of Justice has placed Transparency International – R on its list of ‘foreign agents’, <http://transparency.org.ru/en/news/the-ministry-of-justice-has-placed-transparency-international-r-on-its-list-of-foreign-agents>

65 STATEMENT ON ADDITION OF NDI TO RUSSIAN “UNDESIRABLE ORGANIZATIONS” LIST, March 10, 2016, www.ndi.org/Statement-Russian-Undesirable-Organizations-List

66 Interview with civil society expert, Moscow, March 2015.

UKRAINE

Similarly to other countries included in this research, the freedom of associations is guaranteed by the Ukrainian Constitution and other international laws ratified by the Ukrainian Rada (the Ukrainian Parliament). According to the current legislation and also to the opinion of civil society representatives, it is relatively easy to register an NGO in Ukraine. It is sufficient for two persons or legal entities to create a civic association (non-governmental organisation as it is specified in the national legislation): *“It is easy to register an NGO in Ukraine⁶⁷. There are no obstacles in this regard from governmental authorities. All you need is desire and will to do something and to change things around you.”⁶⁸*

The latest amendments on the law on civil associations were registered in November 2015. The goal of those amendments was to harmonise the national legislation regulating the activities of NGOs with international standards in this field. This was due to the new trends among the Ukrainians to support the actors of the civil society in different ways. On the other hand, as Ukrainian authorities do not have control over the entire territory, the right of association, as well as the right of peaceful assembly and the freedom of speech cannot be guaranteed for all Ukrainian citizens. These freedoms are limited in Crimea and in some parts of Donetsk and Lugansk regions. It is important to mention that in these regions unrecognized authorities have already adopted some new regulations and procedures for local NGOs or religious cults⁶⁹. This regulation often violates international rules and does not respond to the real needs of civil society. In some cases, the content is similar with or inspired by Russian laws on civil society.

After the annexation of Crimea and the start of military operations in Eastern Ukraine, a massive volunteer movement emerged to handle the tasks usually managed by the state (such as supplying soldiers with products and helping displaced civilians⁷⁰).

In the years 2014–2016, the phenomenon of volunteering grew extensively in Ukraine. Influenced by the volunteering movement that supports state independence and integrity, the President of Ukraine, Petro Poroshenko, signed on March 5, 2015 the Law N° 246–VIII “On Amendments to Certain Legislative Acts of Ukraine regarding Volunteerism”⁷¹. This was the first step for Ukrainian civil society in changing the status of volunteering. This document regulates legal relations in volunteering and promotes this form of activism. Moreover, the law removes the restrictions imposed by the previous governments on volunteering organisations and institutions and specifies the rights and responsibilities of volunteers, organisations and institutions that engage volunteers in their activities.

On July 13, 2016, the Ukrainian government approved⁷² the procedure for keeping the *Register of non-profit institutions and organizations*, including here non-profit enterprises and institutions. The new regulations define the procedure of working with state institutions, including the necessary steps to be done by non-profit organizations and regulatory authorities for the inclusion/exclusion of non-profit organisations to and from the register; the procedure for a special stay in the register; and the inclusion and

67 Interview with an foreign policy analyst, September 15, 2016, Kyiv.

68 Interview with representative of civil society from the Ivano-Frankivsk region, July, 2016, Ivano-Frankivsk.

69 Глава Донецкой Народной Республики подписал Закон «О свободе вероисповедания и религиозных объединениях», July 17, 2016, www.dnrsovet.su/vstupil-v-silu-zakon-dnr-o-svobode-veroispovedaniya-i-religioznyh-obedineniyah/

70 Chris Dunnett, How Volunteers Created A ‘Second State’ Inside Ukraine. Massive and unprecedented volunteer movement fills the void where the state fails, Hromadske International, January 30, 2015, www.medium.com/@Hromadske/how-volunteers-created-a-second-state-inside-ukraine-ebefb5d82e1c#.r4eiw4eyl

71 Президент підписав Закон на підтримку волонтерського руху в Україні, President of Ukraine Petro Poroshenko, Official web-site, March 15, 2015, www.president.gov.ua/en/news/prezident-pidpisav-zakon-na-pidtrimku-volonterskogo-ruhu-v-u-35035

72 Текст документа: “Про затвердження Порядку ведення Реєстру неприбуткових установ та організацій, включення неприбуткових підприємств, установ та організацій до Реєстру та виключення з Реєстру” N° 440, July 13, 2016, www.kmu.gov.ua/control/ru/cardnpd?docid=249189426

exclusion from the register in the transition period until 1 January 2017. The main goal of this document is to facilitate the interaction between the authorities and the NGOs. The adopted procedure will also facilitate the settlement of disputes between supervisory authorities and taxpayers when applying the provisions of the Tax Code of Ukraine referring to the exemption of non-profit organisations.

In 2015, the governmental authorities requested the Fiscal Service of Ukraine to send letters to all non-profit organizations registered until mid-2015, asking for founding documents that are not available in the electronic databases of state registration service. The objective of this procedure was to improve the accountability of NGOs in Ukraine. All non-profit organizations that have received such letters were required to submit to the state fiscal service the application form and a copy of their founding documents not later than December 31, 2016. Any organisation ignoring this requirement would be deprived of the status of non-profit organisations⁷³, starting with January 1, 2017.

TURKEY

According to the Department of Association of the Ministry of Interior, in Turkey are 109508 active Associations⁷⁴. Freedom of association is guaranteed by Constitution and civil society is a very active actor, but with a limited influence on policy-making processes⁷⁵. More recent, the situation of NGOs in Turkey tends to be influenced by political factors. Despite that “on December 10, 2015, the Government of Turkey made public its Action Plan, which outlined a set of comprehensive actions to be taken, including to enhance the civil society environment,”⁷⁶ the situation of the NGOs is getting worse. The causes are multiple: firstly, there is the nature of the governing regime, and secondly there was the coup attempt in the summer of 2016.

After the coup attempt, the reaction of the EU was to encourage the authorities in Ankara to meet their obligations in the signed international conventions, including here the respect of human rights: *“Given the subsequent scale and collective nature of measures taken since the coup attempt, the EU called on the authorities to observe the highest standards in respecting the rule of law and fundamental rights, in line with Turkey’s international commitments and status as a candidate country.”*⁷⁷

The events that happened in the last 6 months of 2016 confirmed the situation reported in the previous study concerning the limitations imposed on the freedom of speech and association. “Hostile” civil society criticizing the governing regime is under continuing pressure⁷⁸. Many NGOs are considered to be politically involved or promoting political ideas, because they support a different model of democracy:

„More than 350 NGOs were closed down and their assets seized by one single decree in

73 КАБІНЕТ МІНІСТРІВ УКРАЇНИ ПОСТАНОВА від 13 липня 2016 р. № 440 Київ Про затвердження Порядку ведення Реєстру неприбуткових установ та організацій, включення неприбуткових підприємств, установ та організацій до Реєстру та виключення з Реєстру, Ukrainian Rada, <http://zakon2.rada.gov.ua/laws/show/440-2016-%D0%BF>

74 T.R. Ministry of Interior, Department of Association, December, 2016, <https://www.dernekler.gov.tr/en/home-links/Association-Numbers.aspx>

75 BTI, Turkey Country Report, BTI Project, December, 2016, http://www.bti-project.org/fileadmin/files/BTI/Downloads/Reports/2016/pdf/BTI_2016_Turkey.pdf

76 Civic Freedom Monitor: Turkey, The International Center for Not-for-Profit-Law, June 04, 2016, <http://www.icnl.org/research/monitor/turkey.html>

77 COMMISSION STAFF WORKING DOCUMENT, Turkey 2016 Report Accompanying the document Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions 2016 Communication on EU Enlargement Policy {COM(2016) 715 final}, Brussels, 9.11.2016 SWD(2016) 366 final, www.ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key_documents/2016/20161109_report_turkey.pdf

78 Erdoğan says 'civil society groups working against Turkish state' largely destroyed, Hurriyet Daily News, June 22, 2016, www.hurriyetdailynews.com/erdogan-says-civil-society-groups-working-against-turkish-state-largely-destroyed.aspx?PageID=238&NID=100789&NewsCatID=338

November 2016, leaving Turkish civil society more fragmented and polarized between those critical of government actions and those close to the governing parties.”⁷⁹

According to Turkish journalist, between July 2015 and August 2016, the number of banned NGOs increased up to 1495⁸⁰. Critical NGOs are targeted more frequently by public institutions through: extensive monitoring, and putting pressure on their members⁸¹. The dialogue between the authorities and civil society is not based on trust.

Various categories of civil society representatives are persecuted and cannot fulfil their obligations. Among them are journalists, academia, NGOs representatives and activists.

In the last year, the legislation regulating the NGOs’ activities in Turkey has undergone a few minor changes and is more restrictive. In order to register an association at least 7 members are needed⁸². Moreover, another legal provision refers to the citizenship of the board members, making it mandatory to have at least five Board members who are Turkish citizens or have permanent residence in Turkey.

79 Informal exchange of views and study visit of Turkish NGOs to the Council of Europe and its Conference of INGOs (1–2 December 2016), Council of Europe, Summary and Recommendations, Strasbourg, December, 2016, www.rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016806d4f3

80 State of emergency shuts down Turkey’s NGOs, Al-Monitor, Istanbul, August 07, 2016, www.al-monitor.com/pulse/originals/2016/11/turkey-emergency-rule-cracks-down-on-ngos.html

81 Doyle, Jessica, Between control and co-option: The future of civil society in Erdoğan’s Turkey, June 14, 2016, www.ngoadvisor.net/csos-erdogan-turkey-doyle/

82 Civic Freedom Monitor: Turkey, The International Center for Not-for-Profit-Law, June 04, 2016, www.icnl.org/research/monitor/turkey.html

III.2. FREEDOM OF PEACEFUL ASSEMBLY AND EXPRESSION

There are discrepancies in the respect of freedom of assembly and freedom of expression in the Black Sea Region. There are some countries that are trying to improve conditions for the protection of the two above-mentioned rights, and there are countries where they are guaranteed by national law but are selectively respected. For instance, among the identified violations there are: cases of pressure on independent media, limited freedom of assembly, denial of necessary permits for organising protests, cases of physical violence against protesters, intimidation of civil society representatives. In some states, there are cases of intimidation of representatives of religious groups or sexual minorities. Also, during the last year, more and more cases of hate speech can be identified against ethnic minorities or immigrants.

ARMENIA

In 2016, in Armenia, there were several cases where the freedom of expression and freedom of assembly have been restricted by the authorities. **After the “Four days war” with Azerbaijan, the authorities have promoted an anti-protest speech, stating that protests can harm national security, as these can be used as leverage against Armenia.** This is a classic example of political actors using different tools, such as fear, to discourage the civil society voice. During the July 2016 protests, there were many cases registered of the police using force against protesters. At that time, several journalists were injured, impeding them to perform their job duties⁸³.

The Monitoring Mission of the Eastern Partnership Civil Society Forum, which was created to investigate how Armenian authorities handled the July protests in Yerevan, found several serious violations of human rights. **These include the disproportionate use of force against protesters, arbitrary deprivation of liberty, assault on journalists and preventing them to fulfil their professional duties, refusal of medical help**⁸⁴. In October 2016, around 70 protesters there were deprived of liberty⁸⁵, who are still in need of legal assistance. This is often provided by representatives of human rights organisations, which believe it is time for a new mission for external monitoring to be sent to Armenia⁸⁶. Armenian authorities did not follow international conventions and did not take into account the recommendations included in the first evaluation report of the July 2016 protests.

As regards media, there is independent press, and the press controlled by political and economic elite. Following the events of April 2016, media publications have become less critical towards authorities. At that time there was a kind of tacit understanding of social cohesion and national security needs. Later, however, civil society hosted several debates that challenge the authorities to continue to implement reforms.

83 Journalists and operators sustain injuries after police operation in Yerevan's Sari Tagh, News.am, Yerevan, July 29, 2016, www.news.am/eng/news/339646.html

84 Preliminary Findings and Recommendations of the EaP CSF Monitoring Mission to Armenia, Eastern Partnership Civil Society Forum, August 22, 2016, www.eap-csf.eu/en/news-events/news/preliminary-findings-and-recommendations-of-the-eap-csf-monitoring-mission-to-armenia/

85 Interview with human rights defender from Armenia, October 2016, Yerevan.

86 Ibidem.

AZERBAIJAN

The legislative restrictions regarding the freedom of assembly were maintained in 2016: age limit, special places for meetings or protests. Often the right to protest is limited by the authorities without a justified reason. In 2016, on the eve of the Constitutional referendum, several international organisations have registered cases of intimidation of civil society representatives⁸⁷. Earlier the same year, several journalists who expressed critical opinions against government were released from prison⁸⁸. Thus, these new intimidations made room for new criticism of the government. After the Constitutional Referendum in September, 2016, according to the Institute for War & Peace Reporting⁸⁹, thousands of Azeri citizens took part in street protests. The demonstrations were sanctioned by municipality authorities and dozens of activists were detained by the police. More cases of illegal detention are monitored by international organisations⁹⁰.

According to Meydan TV⁹¹ (Azerbaijan TV station) on July 20, 2016 multiple protests were held in front of the Attorney General's office in Baku. Usually, the protests in front of government buildings are banned. Each participant had his own story to tell. *"Some have been coming to the Attorney General for years, and others have already lost hope to achieve anything from within government structures. Others have come here as a last resort. Many of them have travelled long distances to get here."*⁹² The protests were peaceful and the police did not interfere.

Freedom of expression is still rather limited. Earlier, in the spring of 2016, many activists and journalists have been conditionally released from prison, but with a limitation of their right to travel abroad^{93,94}. In the last few months (before the Constitutional reform), many activists, journalists and human rights defenders were subjected to pressure from public authorities⁹⁵. The repression against freedom of expression in Azerbaijan still continues today:

*"The government of Azerbaijan is carrying out a multi-pronged attack on freedom of expression, including introducing harsh penalties for critical speech online, imprisoning young activists for nothing more than graffiti, blocking access to websites of independent media, and harassing and violating the rights of journalists and activists."*⁹⁶

On November 15, 2016 a new regulation on the freedom of expression was proposed to the legislative body of the state. According to OSCE, the Prosecutor-General of the

87 AZERBAIJAN: ASSAULTS ON FREEDOM OF EXPRESSION MAR CONSTITUTIONAL REFERENDUM, Amnesty International, September 23, 2016, www.amnesty.org/en/press-releases/2016/09/azerbaijan-assaults-on-freedom-of-expression-mar-constitutional-referendum/

88 On 17 March 2016, Rasul Jafarov and Anar Mammadli were released as part of a presidential pardon. On 28 March 2016, Mr. Intigam Aliyev was released after the Supreme Court decided to convert his 7.5-year prison sentence to a five-year suspended term. On 25 May 2016, the Supreme Court released Khadija Ismail on a 3.5-year probation with a 2-year ban on professional activities. Azerbaijan Communications: May 1, 2011 To February 28, 2016, United Nations Special Rapporteur, www.freeassembly.net/reports/azerbaijan-communications/

89 Afgan Mukhtarli, Protests Mark Azerbaijan's Referendum, Institute for War & Peace Reporting, September 24, 2016, www.iwpr.net/global-voices/protests-mark-azerbaijan%E2%80%99s-referendum

90 Azerbaijan: Ten years in jail for youth activist who sprayed graffiti is a travesty of justice, Amnesty International, October 26, 2016, www.amnesty.org/en/latest/news/2016/10/azerbaijan-ten-years-in-jail-for-youth-activist-who-sprayed-graffiti-is-a-travesty-of-justice/

91 Protest in front of the Attorney General's office, Meydan TV, July 26, 2016, www.meydan.tv/en/site/news/16231/

92 Ibidem.

93 Azerbaijan: Release of 10 prisoners of conscience is a glimmer of hope for those still behind bars, Amnesty International, March 17, 2016, www.amnesty.org/en/latest/news/2016/03/azerbaijan-pocs-release/

94 RFE/RL Journalist Ismayilova Released From Custody, Radio Free Europe, May 25, 2016, www.rferl.org/a/azerbaijan-ismayilova-khadija-supreme-court-appeal/27756276.html

95 Renewed crackdown ahead of referendum, The Global Network Defending and Promoting Free Expression, August 18, 2016, www.ifex.org/azerbaijan/2016/08/18/renewed_crackdown/

96 Azerbaijan – Call to authorities to stop crackdown on Freedom of Expression, International Media Support, December 07, 2016, www.mediasupport.org/azerbaijan-call-authorities-stop-crackdown-freedom-expression/

Republic of Azerbaijan has submitted to the Parliament amendments to the Criminal Code: *“The new amendments have as a goal to extend the application of liability for discrediting the honour and dignity of the President to expression online. The penalties for defamation include prison sentences and amendments imposing fines of up to 1,500 manats (\$860).”*⁹⁷ The new legal amendments have entered into force and are implemented by authorities. In December, 2016 a young activist, Bayram Mammadov, who has been detained since May 2016 after spraying graffiti on a statue of the former President of Azerbaijan, was sentenced to 10 years in prison⁹⁸.

BELARUS

There were no major improvements to the legislation governing freedom of assembly in Belarus. **However, a trend can be observed: if protests are not solely anti-government and politically motivated, they are not banned and the police does not intervene. In order to promote specific social and political views, organisers of protests must meet certain conditions:** to be a citizen of the Republic of Belarus; to not have violated the order of organisation or holding mass events; to apply to the local executive committee (indicating the purpose, type of mass event, place, sources of funding, etc.); to apply at least 15 days prior to the date of the assembly; pay for police services, health care workers and cleaners not later than 10 days after the event; not to make declarations about the event before getting permission⁹⁹.

Several protests of Belarusian entrepreneurs have been registered in 2016. These were caused by the amending of the economic legislation and it relates to their commercial activities. It is important to notice the fact that during the protests (January – March, 2016) most of those demonstrations have not been sanctioned by the authorities in a harsh manner.

During last year, there were not recorded significant improvements regarding freedom of speech. In accordance with new legal provisions, all Belarusian media outlets distributors (except for editorial boards) are required to submit data about their institution to the Ministry of Information by 1st of July 2015, with the purpose of being integrated into the State Register. Any activity of non-registered distributors' is considered illegal. In the end, the new regulations may lead to censorship¹⁰⁰. The Ministry of Information can use various penalty tools against NGOs, including banning their activities or by using phone networks to stifle free speech and dissent. In one of their reports, Amnesty International drew attention to the fact that telecom companies allow this to happen by granting the government nearly unlimited access to their clients' communications and data¹⁰¹.

Still a large number of human rights defenders, journalists and bloggers are forced to carry out their activities abroad.

97 OSCE Representative reiterates call on authorities in Azerbaijan to decriminalize defamation, OSCE, November 17, 2016, www.osce.org/fom/282286

98 Azerbaijan: A decade in jail for graffiti activist is a shameless attempt to stifle criticism, Amnesty International, Baku, December 08, 2016, www.amnesty.org/en/latest/news/2016/12/azerbaijan-a-decade-in-jail-for-graffiti-activist-is-a-shameless-attempt-to-stifle-criticism/

99 Why Belarus has bad law on peaceful assembly? April 14, 2016, <http://en.prava-by.info/archives/5069>

100 Andrei Bastunets: Press freedom has never been easy in Belarus, January 22, 2016, www.mappingmediafreedom.org/plus/index.php/2016/01/22/andrei-bastunets-press-freedom-has-never-been-easy-in-belarus-2/

101 BELARUS: “IT’S ENOUGH FOR PEOPLE TO FEEL IT EXISTS” : CIVIL SOCIETY, SECRECY AND SURVEILLANCE IN BELARUS, Amnesty International, Minsk, July 07, 2016, www.amnesty.org/en/documents/eur49/4306/2016/en/

GEORGIA

Georgia has one of the most liberal laws regarding the freedom of assembly and expression. It is relatively easy to get permission for public events and police rarely intervenes during protests. There are, however, specific features that relate to the geopolitical situation in the region. Georgia is a multi-ethnic state where representatives of different religious groups can be found. Most of the times, despite the difficulties of mutual understanding, their representatives can reach an agreement if necessary. But there are cases when sensitive issues are used to produce tensions, in order to influence the decision-making processes¹⁰².

Most cases of intolerance are registered against the LGBT community. For example, in May, 2016 two opposing rallies were held in Tbilisi. The rallies led to the arrest of several young activists protesting against the treatment of the lesbian, gay, bisexual, and transgender (LGBT) community in Georgia¹⁰³. Representatives of conservative Orthodox groups' actively advocate against the LGBT community, including through public events promoting family values, such as the "Family Values Day". Often, these demonstrations become violent, with both sides being guilty of using force or hate speech. In the majority of cases, the police was forced to fine or arrest persons who used violence.

In terms of media freedom, there are cases when media publications are associated with various politicians. But compared to the situation in its neighbouring states, Armenia and Azerbaijan, Georgia has one of the most diverse media in the region. During the last two years, the case of the most important opposition TV channel "Rustavi 2" is actively being discussed.

Amnesty International¹⁰⁴ has expressed concern over the scandal regarding the ownership of "Rustavi 2", which may harm freedom of expression in Georgia. Another important issue is the influence of foreign political actors. In this particular case, we have to mention the foreign propaganda or the Russian "soft power" tools¹⁰⁵. The main goal of the Russian propaganda (financial support offered to less influent Georgian NGOs, support of broadcasting Russian TV channels or publications, or different hate speech discourses among minorities – ethnic or religious) is to influence the foreign political orientation of the country, in different regions in Georgia.

102 Threats of Russian Hard and Soft Power in Georgia, European Initiative, Liberal Academy Tbilisi, 2016, p. 26, www.ei-lat.ge/images/doc/policy%20document.pdf

103 Tbilisi Marks Anti-Homophobia Day with LGBT Arrests, Religious Rallies, Georgia Today, May, 2016, www.georgiatoday.ge/news/3804/Tbilisi-Marks-Anti-Homophobia-Day-with-LGBT-Arrests,-Religious-Rallies

104 Annual report by Amnesty International criticizes Georgia's human rights record, February 2016, www.dfwatch.net/annual-report-by-amnesty-international-criticises-georgias-human-rights-record-40418

105 Threats of Russian Hard and Soft Power in Georgia, European Initiative, Liberal Academy Tbilisi, 2016, pp. 21-23, www.ei-lat.ge/images/doc/policy%20document.pdf

REPUBLIC OF MOLDOVA

It is relatively easy to exercise the right to protest in Moldova, even for political causes. The authorization for a protest is issued within 2–3 days, and the authorities must ensure the safety of those protesting. Although freedom of assembly is guaranteed by law, in the past years there have been situations in which this right was obstructed by government authorities (Twitter revolution, April 2009). However, there are certain aspects that indicate a positive trend. In the last two years, several anti-government protests were organized in Moldova, either of a political nature or not¹⁰⁶. Most of them were peaceful, however there were situations when organisers did not manage to contain the emotions and frustration of the participants¹⁰⁷. Thus, public authorities were put in the position to deal with local challenges, which resulted in the use of violence by some protesters. One of such protests was held in January 2016, another occurred in April 2016. During the latter, several policeman were injured. In general, civil society appreciates the neutrality of the police during the protests from the last year¹⁰⁸.

Freedom of expression is regulated and guaranteed by law. Although there are a large number of printed and online publications, and the information is accessible (according to the existing legislation), many of the publications and televisions are controlled by different political parties and are used for political purposes. Moreover, independent media has a restricted access to advertising and is financed mostly from external programs¹⁰⁹.

The access to public information is regulated by law. Moreover, in 2015 a new platform was launched called www.date.gov.md, where public data on the founders of Moldovan companies can be seen. Civil society appreciated this platform as a necessary tool. However, the trend among public institutions is to limit the access to information for independent media. Usually this occurs by delaying or ignoring requests for public information.

In March 2016, the Ministry of Internal Affairs has initiated a bill that would regulate the online public space in terms of combating pornography and terrorism. This initiative, referred to as the Big Brother Law, will grant the investigating authority the right to block sites and check personal messages. Civil society representatives criticized the initiative.

Discriminatory speeches have been recorded periodically, most coming from religious groups who demanded the cancellation of the Law on Equal Opportunities. Moreover, on 22 May 2016 during a protest aimed at raising awareness on the rights of sexual minorities (Fearless), clashes between peaceful protesters and those who are against this law were avoided only through prompt police intervention¹¹⁰.

It is still difficult to achieve freedom of expression and freedom of assembly in Transnistria as Moldovan governmental authorities do not control the region. The only way to provide financial aid to NGOs from Transnistria is through multilateral organisations and international agencies that support social projects (such as UNDP or EU through UNDP). Initiatives and projects aimed to promote and protect human rights in the region are less supported. The unrecognized authorities interpret them as political projects and attempts to undermine the existing regime.

¹⁰⁶ In the period 2015 – 2016 in Moldova have held several anti-government protests. Only in the month of January 2016 were recorded acts of violence during the demonstrations. During the protests were identified more instigators to violence.

¹⁰⁷ PROTESTE violente la Chişinău după votul Parlamentului în favoarea Guvernului Pavel Filip. UE și SUA îndeamnă la calm și dialog- FOTO, VIDEO, ProTV, January 20, 2016, www.mediafax.ro/externe/proteste-violente-la-chisinau-dupa-votul-parlamentului-in-favoarea-guvernului-pavel-filip-ue-si-sua-indeamna-la-calm-si-dialog-foto-video-14973808

¹⁰⁸ Interview with a representative of civil society from Moldova, June, 2016.

¹⁰⁹ The independent media is usually registered as an NGO and can access different calls for projects.

¹¹⁰ Interview with a representative of civil society from Moldova, June, 2016

RUSSIAN FEDERATION

Freedom of assembly and freedom of expression are regulated by law in Russia. However, these provisions do not meet international standards and need considerable improvement. Protests are limited and, very often, there are more police officers than demonstrators during protests. Another trend is sanctioning as well as arresting peaceful protesters, including here representatives of religious groups: *“In the last five months of 2015, at least 45 people and one religious group faced administrative charges for peaceful public religious activities. Most were Jehovah’s Witnesses who offered religious texts in public, but Mormons, Hare Krishnas, Baptists, and a Muslim also were prosecuted; 31 received heavy fines. Additionally, human rights groups report that some peaceful ethnic Russian and other converts to Islam face possible persecution and criminal charges.”*¹¹¹

On the other hand, freedom of expression in Russia is limited by the nature of the political regime. Representatives of independent civil society can only influence certain aspects, but cannot generate systemic changes. There are two options for civil society: to accept cooperation with public institutions and to support the official domestic and foreign policies; or to accept the fact that their proposals and recommendations will not be appreciated by the authorities and will be qualified as being against national interests. Self-censorship is a defining element of the environment in which NGOs and journalists operate.

Another worrying trend in the Russian Federation is the adoption of laws under the pretext of taking measures to combat terrorism (Yarovaya Laws, in July 2016, Russia), which gives to authorities additional powers to limit the right to free speech by censoring social networks, emails and phones calls. In reality, these measures have as effect self-censorship.

Media outlets are mostly controlled and very few publications can afford to promote an independent editorial policy. With limited access to external financial resources, the number of publications that may provide alternative content has decreased. Also, like in other post-soviet countries, it can be sometimes dangerous to be a journalist in Russia. Alexander Shchetinin, a Russian journalist well-known for his criticism of Vladimir Putin, was found dead with a gun near his body¹¹².

Alexander Shchetinin was one of the founders of the Novy Region online news agency. The case came to the attention of international organisations. In a message for Russian authorities, the OSCE Representative on Freedom of the Media, Dunja Mijatovic, called for the improvement of the fragile situation regarding the safety of journalists and the “issue of impunity” to be addressed fully and effectively¹¹³.

111 Russia, report of the United States Commission on International Religious Freedom, Washington, p. 4, https://www.uscirf.gov/sites/default/files/USCIRF_Tier2_Russia.pdf

112 Russian journalist critical of Vladimir Putin found dead on his birthday with gunshot wound to his head, the Independent, August 28, 2016, www.independent.co.uk/news/world/russian-journalist-vladimir-putin-critic-alexander-schetinin-found-dead-on-birthday-kyiv-ukraine-a7214286.html

113 OSCE Calls For ‘Thorough’ Investigation Of Russian Journalist’s Death In Kyiv, Radio Free Europe, August 30, 2016, www.rferl.org/a/osce-calls-for-thorough-investigation-russian-journalists-death-kyiv/27953866.html

UKRAINE

Freedom of peaceful assembly and freedom of speech is guaranteed by the Ukrainian Constitution and other specific laws. As regards the freedom of peaceful assembly, the most recent proposed law to improve the legal framework in the field was sent to the Parliament in 2016. Following internal debate, in May, 2016 Ukrainian authorities asked the Council of Europe's Venice Commission for an opinion on two draft laws on the protection of the freedom of peaceful assembly. The Venice Commission welcomed the efforts of Ukrainian public authorities to provide a legal framework in line with international standards.

Also, foreign experts outlined a number of necessary improvements to the drafts¹¹⁴. The new regulations are a result of the EuroMaidan protests, when the freedom of peaceful assembly was restricted by the former regime.

Freedom of speech in Ukraine is heavily influenced by the situation in the Eastern part of the country, but also by the the loss of territorial integrity in March 2014. Therefore it is important to monitor the evolution of these fundamental freedoms across the country, including in Crimea, Donbas and Lugansk regions.

From the perspective of media freedom (TV, online publications and print media), several trends can be highlighted in 2016: a large part of the media is still controlled by various groups with economic and political interests; journalism remains a rather dangerous profession (an example being the murder of journalist Pavel Sheremet in Ukraine, 2016¹¹⁵); the military operations in eastern Ukraine are used as an argument to limit media freedom. In this case, some similarities can be found with the "Four days war" in Armenia, when the governmental authorities tried to limit the criticism.

Concerns about the deteriorating freedom of expression were mentioned by several experts. On August 26, 2016, Tatyana Pechonchyk¹¹⁶ stated that the armed conflict between the Russian Federation and Ukraine, the occupation of Crimea and Russian support for separatists in Donbas have led to a large-scale media war and also to adoption of a number of media restrictions by Ukrainian authorities. According to the latter, these steps were taken with the purpose of protecting national security and territorial integrity against Russian aggression in Crimea and Eastern Ukraine.

However, it is interesting to note that those restrictions affected not only on Russian, but also Ukrainian journalists and bloggers. Some of them have been accused of being pro-Russian. In some cases, these restrictions have narrowed the space for criticism in Ukraine amid the armed conflict that began in 2014. An example in this regard is the arson of the headquarters of the Ukrainian television station "Inter" on September 05, 2016. "Inter" is considered to have a pro-Russian content. In the past, the content of the shows broadcasted on this TV channel was used by politicians (owners) to promote propaganda. After EuroMaidan and the events in 2014, the tolerance for this channel is limited due to the rising of the anti-Russian position.

¹¹⁴ CDL-AD(2016)030-e Ukraine – Joint Opinion of the Venice Commission, the Directorate of Human Rights (DHR) of the Directorate General of Human Rights and Rule of Law (DGI) of the Council of Europe and the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR), on two Draft Laws on Guarantees for Freedom of Peaceful Assembly, adopted by the Venice Commission at its 108th Plenary Session (14-15 October 2016), Council of Europe, Venice Commission, October, 2016, www.venice.coe.int/webforms/documents/?pdf=CDL-AD%282016%29030-e

¹¹⁵ Journalist Pavel Sheremet was killed in a car explosion in Kyiv on the morning of July 20, 2016. Sheremet worked in *Ukrainska Pravda*, a popular online news outlet. Ukrainian-Belarusian journalist Pavel Sheremet killed in Kyiv (UPDATED), *Kyiv Post*, July 20, 2016, www.kyivpost.com/article/content/ukraine-politics/ukrainian-belarusian-journalist-pavlo-sheremet-killed-in-kyiv-419071.html

¹¹⁶ Conflict with Russia prompts media restrictions in Ukraine, *Index – the Voice of Free Expression*, August 26, 2016 (and last updates on September 02, 2016), www.indexoncensorship.org/2016/08/shrinking-space-journalism-russia-ukraine/

Even in the context of these worrying trends, Ukrainian civil society initiates public debates on the need to create a favourable environment developing a space for expressing ideas and opinions from different interested parties. The pressure that comes from civil society after EuroMaidan remains an important source of pressure for the authorities to promote fundamental freedoms. In the case of Ukraine, the main question remains the following: *Will the political elite ensure the necessary conditions for the development of an effective civil society?*

TURKEY

Freedom of assembly continued to be limited in 2016. The ongoing deterioration of the situation of human rights in the country is explained by a failed Kurdish peace process, a sharp escalation of violent anti-terrorism operations, border guards' attacks on Syrian refugees, and a severe crackdown on journalists and political dissidents¹¹⁷. The arbitrary detentions of protesters were provided with a legal basis in March 2015 through the legislative amendments to the Domestic Security Package¹¹⁸, providing police with the power to detain people without judicial supervision¹¹⁹. In 2016 peaceful demonstrators continued to be prosecuted and convicted.

Freedom of expression in Turkey is guaranteed by the Constitution, but in practice this right is limited by governmental authorities. The situation has worsened considerably in the summer of 2016 after the coup attempt, when massive human rights violations were revealed. Amnesty International experts who have been following political developments in Turkey noticed the fact that, in a short period of time, the authorities blocked more than 20 publications and withdrew the licenses for 25 media production houses. Andrews Gardner explains that: *"We are witnessing a crackdown of exceptional proportions in Turkey at the moment. While it is understandable, and legitimate, that the government wishes to investigate and punish those responsible for this bloody coup attempt, they must abide by the rule of law and respect freedom of expression."*

¹²⁰By the end of July 2016, authorities ordered the shutdown of 45 newspapers, 3 news agencies, 16 television channels, 15 magazines and 29 publishers¹²¹. In their the most recent reports, *"UN human rights experts have urged the Turkish Government to uphold the rule of law in time of crisis, voicing their concern about the use of emergency measures to target dissent and criticism."*¹²²

117 DETERIORATION OF RIGHTS ENVIRONMENT IN TURKEY VIOLATES INTERNATIONAL OBLIGATIONS, International Justice Resource Center, May 16, 2016, www.ijrcenter.org/2016/05/16/deterioration-of-rights-environment-in-turkey-violates-international-obligations/

118 Turkey: Parliament approves domestic security package, Middle East Eye, March 27, 2015, www.middleeasteye.net/news/turkey-parliament-approves-domestic-security-package-582705145

119 TURKEY 2015/2016, Annual Report, Amnesty International, 2016, www.amnesty.org/en/countries/europe-and-central-asia/turkey/report-turkey/

120 Turkey: Media purge threatens freedom of expression, Amnesty International, July 20, 2016, www.amnesty.org/en/latest/news/2016/07/turkey-media-purge-threatens-freedom-of-expression/

121 Yeginsu, Ceylan, Turkey Expands Purge, Shutting Down News Media Outlets, The New York Times, July 27, 2016, www.nytimes.com/2016/07/28/world/europe/turkey-media-newspapers-shut.html?_r=0

122 UN Experts Urge Turkey To Adhere To Its Human Rights Obligations Even In Time Of Declared Emergency, United Nation Special Rapporteur, August 19, 2016, www.freeassembly.net/news/turkey-iccpr-derogation/

III.3. VOLUNTEERING POLICIES

Volunteering policies are a common topic on the agendas of NGOs in the Black Sea region. Harmonising regulatory frameworks governing this area with the international standards is still to be completed. The desire to speed up this process is conditioned by the pressure coming from youth NGOs or domestic political processes (EuroMaidan, 2014, Ukraine), as well as certain exceptional situations or natural disasters (the floods in the summer of 2015 in Tbilisi). Encouraging volunteering can be done by highlighting its long-term benefits – recognition as work experience, tax reductions, international experience, continuing education, recognition of professional skills. As mentioned in the first edition of the report (2015), volunteering laws were passed in the majority of Black Sea Region countries. However, it is important to highlight the difference in the approach of volunteering.

The Law on Volunteering was adopted by the Moldovan Parliament in 2010¹²³. Experts say that this was one of the most progressive laws in this field from the Black Sea Region and it was passed after a long public debate with the involvement of the civil society and public institutions in the youth field. Under public pressure, Ukraine also developed and passed a law to regulate volunteering. The Law N° 246-VIII “*On Amendments to Certain Legislative Acts of Ukraine regarding Volunteerism*” was signed by the Ukrainian President, Petro Poroshenko, on March 5, 2015. In a state where volunteering has become a phenomenon of a great relevance for national integrity, this law was necessary in order to remove the restrictions on volunteering organisations and institutions; to specify rights and responsibilities of volunteers, organisations and institutions that engage volunteers in their activities; to explain reimbursement procedures for providing volunteer assistance¹²⁴.

Even if progress can be traced in terms of harmonising national policies in the field of volunteering with international standards, the public in the Black Sea region is still unfamiliar with the benefits of promoting this form of activism. There is a need to promote volunteering and organisations concerned with the development of volunteering should be encouraged to promote this phenomenon both at national and regional levels, not only in capital cities.

123 LEGE Nr. 121 din 18.06.2010 VOLUNTARIATULUI, published on 24.09.2010 in the Official Monitor Nr. 179–181 art Nr : 608 www.lex.justice.md/viewdoc.php?action=view&view=doc&id=336054&lang=1

124 Президент підписав Закон на підтримку волонтерського руху в Україні, President of Ukraine Petro Poroshenko, Official website, March 15, 2015, <http://www.president.gov.ua/en/news/prezident-pidpisav-zakon-na-pidtrimku-volontersko-go-ruhu-v-u-35035>

III.4. FRAMEWORK AND PRACTICES FOR PUBLIC INSTITUTIONS – CSOS COOPERATION

One of the most important issues in the Black Sea Region remains the lack of effective strategies, oriented towards producing basic normative frameworks for a pragmatic dialogue between civil society and public institutions. The main issue is the lack of vision¹²⁵ on how to create an enabling environment for civil society development. However, in order to solve this problem it is necessary to define the elements of that new vision that might respond to new challenges and to internal and external threats. Adopting documents or signing partnerships between public institutions and civil society are insufficient measures¹²⁶. These partnerships must be equipped with the resources and mechanisms required to produce concrete results. The state must not transform civil society into provides services. Civil society is an important actor that should not be subordinated to public authorities in order to be able to criticize, evaluate decisions makers and present alternative solutions where needed.

Indeed, many external partners insist on signing or drafting documents (strategies and legal frameworks for interaction with NGOs) to regulate partnerships between state institutions and civil society. Sometimes, these initiatives have a formal character and, in practice, a genuine dialogue is missing. Countries like Georgia¹²⁷, Republic of Moldova¹²⁸, and the Russian Federation¹²⁹ have adopted strategies or concepts for civil society development.

Formalizing this dialogue keeps the state from receiving the support of civil society, from the creative potential of the human resources existing in NGOs and the alternative solutions they produce, that often are more effective than those generated by public institutions.

125 Interview with an Armenian human rights defender, October, 2016, Yerevan.

126 Several of the documents mentioned in this chapter in the previous report (for 2015) are still in debate.

127 State Concept on CSO Development, Civil Society Institute Tbilisi, 2013, www.civilin.org/Eng/viewtopic.php?id=146

128 LEGE Nr. 205 din 28.09.2012 pentru aprobarea Strategiei de dezvoltare a societății civile pentru perioada 2012–2015 și a Planului de acțiuni pentru implementarea Strategiei, 04.01.2013 în Monitorul Oficial Nr. 1–5 art Nr : 4, Chișinău, www.lex.justice.md/viewdoc.php?action=view&view=doc&id=346217&lang=1

129 КОНЦЕПЦИЯ РАЗВИТИЯ ГРАЖДАНСКОГО ЗАКОНОДАТЕЛЬСТВА РОССИЙСКОЙ ФЕДЕРАЦИИ, Higher School of Economics National Research University, Moscow, February, 2010, <https://pravo.hse.ru/intprilaw/doc/0101>

III.5. NGO INVOLVEMENT IN POLICY AND DECISION MAKING PROCESSES

The involvement of NGOs in public policy and decision-making differs from state to state in the region covered by this study. Their involvement is often influenced by the political agendas¹³⁰ of economic elites. The political factor cannot be excluded and, very often, it generates content for public debate and sets the limits for the involvement of civil society in decision-making processes. To succeed in this regard, non-governmental organizations must be creative and determined to change processes; it takes motivation and a vision that must be followed strictly. Very often, civil society is ignored, proposals and recommendations are omitted, and their results are not appreciated. It is important to note that that civil society's involvement and criticism against public authorities can become a mechanism to render the governance act more effective.

There are many national and regional platforms available to NGOs. These platforms provide the space to discuss problems faced by civil society, to which public authorities are invited. The creation of these discussion platforms, holding debates and influencing policy decisions has been requested by foreign partners: platforms, councils or commissions to ministries, state agencies and other public institutions and were part of the negotiation process for the Association Agreements with the European Union¹³⁰. However, this tends to diminish the effectiveness of the discussions. Interaction between public institutions and NGOs is less effective, as the latter are becoming increasingly dependent on governmental resources. The dialogue turns into a relationship of financial subordination. Another regional trend is to invite only certain NGOs to take part in the discussions, causing the debates to lose credibility¹³¹. The criteria for selecting civil society experts are not always transparent. Only a small number of experts are invited to discussions, the voice of the regions being often ignored as they are not usually present¹³².

There is no visible change in the legal framework that could encourage a greater civil society involvement in the decision-making process. Several legislative initiatives are currently being discussed in different countries. What can be done, however, is to adopt the necessary mechanisms for the implementation of the existing legislation, including those that aim to increase the degree of civil society involvement in decision-making processes. Civil society can put pressure on the authorities and ask for transparency, access to public information, accountability of public officials, promoting and respecting the laws in force. Also, NGOs should be involved in further monitoring the implementation of public policies and reforms, and be the alternative voice of society that can generate reports and make public any attempt to restrict fundamental freedoms. One solution could be to bring domestic issues to international attention and involve external experts in the discussions, with direct consequences for the country's image abroad. More often than not, governments are sensitive to foreign criticism. Limiting access to public data or minimise the role of discussion platforms, which represent a bridge for dialogue between civil society and governments, contribute to a reduced mutual trust. The recommendations proposed in the previous study remain valid.

130 For example, in Georgia, Moldova, Ukraine.

131 Interview with Armenian human rights defender, October 2016, Yerevan.

132 Interviews with Moldovan and Ukrainian representatives of civil society, June – July, 2016.

III.6. THE ADDED VALUE OF NGO EXPERTISE IN THE REGION

Following the formal and informal discussions with the interviewed experts, one conclusion was that it would be useful for this study to mention a few aspects related to the quality of the expertise produced by civil society. The motivation to join an NGO or become a volunteer has different arguments and the decision to create or to become a NGO member is not simple. It is usually facilitated by education, skills, personal commitment to change things or it is an intermediate step towards becoming a public servant, where the experience and involvement in the NGO activities and projects is encouraged.

In this sense, there are certain trends that can be observed at regional level. In countries with authoritarian regimes, civil society is usually persecuted and protests and criticism are discouraged. In this context, the most critical voices, the experts, decide to emigrate in neighbouring countries. Here, a part of them continue to express their concerns on the future of democracy in their countries of origin¹³³, while another part does not take into account the option of returning. This is a common phenomenon for activists from Belarus and Azerbaijan. In recent years, after the adoption of the law on foreign agents, the trend of emigration of critical voices can be observed also in Russia. Moreover, Russian civil society representatives are looking not only for new possibilities to maintain the activities of NGOs, but also best practices on how to interact with authorities that are adopting restrictive measures. Russian civil society representatives become less active, less critical and prefer to adopt a non-involvement strategy in public debates on sensitive topics or decide to pursue lengthy academic programmes.

In states like Georgia, Moldova or Ukraine, the situation is different. After the Rose Revolution (2004), the Orange Revolution (2004 – 2005), the Twitter Revolution (April 2009) or EuroMaidan (2013 – 2014), civil society representatives migrated to public institutions, where they got involved in the implementation of public policies. Many professionals who studied in the Western universities were encouraged to return in their countries and accept key positions. Also, a transfer of the expertise from civil society to public institutions has been observed.

However, not all experiences are good. After many disappointing experiences, there are cases when the new elite of civil servants returned to civil society, turning again into government critics: *“During Saakashvili’s government I saw how a part of Georgian civil society has been engaged in the act of governance. This was the moment when the oxygenation of the civil society occurred. New people came in NGOs, young people, and have thus filled the gap. In Moldova this has not happened. We have the same experts. With the change of government in Georgia (after 2012), those employed in the public institutions by Saakashvili returned to civil society. They now have the experience of governing and know exactly what and where things do not work.”*¹³⁴

When they do not succeed in getting involved in NGO activities, young Moldovan experts migrate. The impact of this phenomenon can be both negative and positive. On short term, there is a lack of qualitative and efficient social projects. On long term, however,

133 They turn into permanent travelers. Very often, their family members continue to be persecuted in their origine countries by government authorities.

134 Interview with expert of international donor organisation, Bruxelles, December 2016.

some say that experts should not be encouraged to return immediately: *“The migration of Moldovans in the European Union, the United States, and Canada is very good for Moldova. We do not need these people to come back now. The impact will be evaluated over the years. We have the model “Sergiu Cioclea”¹³⁵. There is room for external experts who accumulate experience in many public institutions in the country.”¹³⁶*

In Ukraine, after EuroMaidan, several civil society representatives expressed their willingness to become public servants if needed. This phenomenon is normal in countries with a dynamic political life: *“If I feel that my expertise is necessary and useful for Ukraine as a civil servant, then I will go from civil society in a public institution. We must understand that just getting involved, we can produce change. Now I know that what I do is useful from the status that I have: civil society representative.”¹³⁷*

The lack of vision and effective leadership within also civil society are felt in the region. In the end, this has a negative influence on the formation of future experts.

135 Sergiu Cioclea is the Governor of the National Bank of Moldova. Sergiu Cioclea had over 17 years of professional experience in the financial-banking sector. Before becoming the Governor of the NBM, he held the function of Managing Director, Head of Corporate Finance Department of BNP Paribas Group for Russia and former Soviet Union countries (2008–2015). Mr. Sergiu Cioclea, Governor of the National Bank of Moldova, National Bank of Moldova, April 11, 2016, <https://www.bnm.md/en/content/sergiu-cioclea-guvernator-al-bnm>

136 Interview with public institution representative, Chisinau, November, 2016.

137 Interview with leader of a non-governmental organization, Kyiv, September, 2016.

III.7. DONOR – CSO RELATIONSHIP

The relationship between donor and civil society should be analysed from a double perspective:

- The relationship with foreign donors, who often have well-designed funding programs with transparent procedures and conditions for accessing funds.
- The relationship with domestic donors – these are public institutions, private companies or individuals who decide to support the financial sustainability of NGOs.

Most non-governmental representatives from the Black Sea Region, interviewed during June–December 2016, argue that the relationship with foreign donors requires a more pragmatic approach. As interaction with foreign donors is governed by domestic laws, the regulatory issues are addressed in the chapters that relate to freedom of association, because they are part of the debate on the financial sustainability of the associative environment. Many legal provisions have not undergone essential changes.

Today, strategies are needed to streamline the dialogue between civil society and foreign donors, as well as external technical and financial assistance. The agendas of foreign donors and NGOs must be synchronized in order to take into account the real needs of organisations from the region¹³⁸.

*“In Moldova, a big problem is the dependence of NGOs on external funding. Domestic funds are almost inexistent. In such conditions the voice of small organizations is not heard. (...) I believe that there is a space for a complex debate which involves donors and they have to be ready to review their own funding mechanisms if they want their actions to have greater efficiency. And here, the authorities should also be part of the discussion.”*¹³⁹

Unlike Armenia, Georgia, Moldova and Ukraine, where the access to foreign funds is allowed and the tax laws governing these types of income are in continuous harmonisation with international standards, in Azerbaijan¹⁴⁰, Belarus¹⁴¹, and Russian Federation and Turkey in some cases¹⁴², restrictions on foreign funding remain in place. In the absence of foreign funding, NGOs are turning to domestic funding programs, which exclude initiatives that relate to human rights or political education that can encourage alternative views.

For example, following legislative changes in recent years that prohibit the access of non-governmental organisations to foreign funding in Russia¹⁴³, several programs,

138 Interviews with representatives of civil society from different countries from Black Sea Region (June – December, 2016). This is a common problem defined by NGOs representatives.

139 Interview with a representative of an unregistered group from Moldova, June, 2016.

140 In Azerbaijan on 21 October of 2015, the Cabinet of Ministers adopted a decree on “On registration of contracts on provision of services and works at the expense of foreign financial sources by non-governmental organizations, as well as branches or representative offices of foreign non-governmental organizations”. Interview with civil society expert from Azerbaijan, June, 2016.

141 Changes in tax laws upheld the selective approach where the Tax Code specifies the names of the organizations, for which donations are excluded for Belarusian donors from their taxable base (the list of such organizations in the Code has been extended slightly).

142 Especially after coup attempt, summer, 2016.

143 In Russian Federation authorities have considerably increased the state budget for financing the NGO sector. Interview with Russian representative of civil society, March, 2016, Moscow. This interview was conducted during another research project, implemented by the author of this report.

public institutions¹⁴⁴ and public-private¹⁴⁵ partnerships were created, with the purpose of replacing or compensating for foreign donations with funds from the state budget. This is also an ideological strategy as the funding from the state budget is not intended for projects aimed at providing an alternative to the official policy.

Special attention is given by foreign donors to Ukraine. Several international donors have extended their funding programs in this country after the events of 2014 (EuroMaidan, annexation of Crimea). Experts from civil society drew attention to the paradigm shift of foreign funding: orientation to the regions, supporting training programs for local experts, both from NGOs and from public institutions, encouraging local initiatives, not just in the capital, trying to avoid duplication of funding programs on the same subject in the same region or county – consultation among donors on funding programs¹⁴⁶.

Moreover, another regional trend identified through this study, is that foreign donors usually prefer to work with the same non-governmental organisations for more than 10 years. Their argument is a pragmatic one, as well-established NGOs have the capacity to design and implement projects. Foundations or international organisations interact easily with them, knowing that they have the organisational capacity to collaborate. For many NGOs, the lack of experience and human resources can be an obstacle for financing various projects. Consequently, very few NGOs resist or manage to carry out their activity.

Equal participating conditions for NGOs and public institutions in the same funding program is another impediment in ensuring NGO financial sustainability. Thus, from the very beginning NGOs are put in a position where they have to cope with an unfair competition because they do not have the same administrative potential as a public institution.¹⁴⁷

Domestic donors are mostly public institutions: agencies or ministries. They offer financial assistance programs for specific projects according to their profile. In the domestic donors list are also included individuals and companies. In some countries, they are able to redirect a part of their incomes to the associative sector with certain tax concessions. In some states included in this study, this topic is on the agenda of civil society and the authorities. The latest legislative amendments on this issue have been introduced in Moldova. "The 2% law" was adopted in July, 2016. Starting with January 1, 2017, individual taxpayers will be able to redirect two percent of their income tax from the previous year to a non-profit organization or a religious cult¹⁴⁸. This law has improved a similar law adopted in 2014 that could not be effectively implemented.

Local businessmen may also be included in the category of domestic donors. They usually prefer to have a marginal involvement, from time to time, rather than offering long-term support. Furthermore, they are not interested to be included in the debate on rules and regulatory frameworks. Often, their involvement is treated with suspicion because it usually lacks transparency and predictability.¹⁴⁹

144 Rossotrudnichestvo, www.rs.gov.ru/

145 Gorchakov Fund, www.gorchakovfund.ru/en/about/

146 U-LEAD and DOBRE Programs for decentralization. Interview with Ukrainian representative of civil society, June, 2016.

147 Interviews with representatives of civil society from different countries from Black Sea Region (June – December, 2016). This is a common problem defined by NGOs representatives.

148 Legea 2% pe înțelesul tuturor, Legal Resources Centre from Moldova, July 29, 2016, www.crijm.org/legea-2-pe-intelesul-tuturor/

149 Interview with representative of civil society from Moldova, June, 2016.

As a recommendation, the improvement of legislative frameworks which regulates the activities of foreign donors needs to be continued so that this area can become predictable and transparent. Such an approach could strengthen not only NGOs external partnerships, but would contribute to an increasing interest in initiatives designed to improve the organisations' internal capacity.

An orientation towards multi-annual programmes is another recurrent recommendation. Thus, the loss of human capital could be reduced, by ensuring the continuity of the implemented activities and projects. Big donors should also promote local projects, they should study closely the needs of civil society in the region and promote the transfer of experience and skills from the centre to the periphery.

III.8. PRIORITIES FOR REGIONAL COOPERATION

Both in the first and second edition of this study, identifying common interests for cooperation in the Black Sea Region was one of the main goals.

The space for discussion provided during the annual Black Sea NGO Forum is very useful for observing trends and for developing content for civil society projects and policies. It is the place various interests, experiences, best practices, public policy initiatives, and experts from other regions come together. The participation of relevant regional donors, who have the opportunity to present their programmes dedicated to civil society in these countries, but also the participation of public institutions representatives, is one more reason to encourage qualitative dialogue and interaction.

Some changes have occurred in terms of understanding the need for international donors to develop and encourage more funding programs for the Black Sea Region. Interest has increased after extensive political and social transformations in the region that have reduced predictability and, instead, increased instability: the annexation of Crimea, EuroMaidan, the protests in Yerevan, the “Four Days War”, the decrease of macroeconomic indicators, are only a few examples.

Among the necessary initiatives mentioned by the respondents during interviews or study visits, there are: the exchange of best practices regarding civil society cooperation with the authorities, promoting best practices and the methodology used by certain NGOs in their activities and projects that do not involve the presence of the public authorities, due to the fact that there are limited resources dedicated to those initiatives.

The respondents have mentioned success stories such as ChildPact – The Coalition for Child Protection. There is an interest for the relevant tools and concrete measures in order to ensure the participation of public authorities in project implementation for other domains: good governance, anti-corruption, socio-economic reforms, education.

One important challenge is the fluctuation of participants at the Black Sea NGO Forum, generated in some cases by the changing of personnel in their organisations. Often, organisations struggle to cope with human resources changes that severely affect institutional memory and leadership. Youth organisations are more prone to this phenomenon. After being employed in public institutions or international organisations, former NGO employees no longer communicate with those who take their place. It creates an empty space with new people, lack of mentoring and shared vision, repeating again and again the same process of mutual understanding. This may affect the continuity of projects proposed during working groups’ discussions.

Some civil society representatives, including youth organisations tend to be present in several regional platforms: Black Sea NGO Forum, Eastern Partnership Civil Society Forum, and other regional initiatives which target some of the countries included in this study. The objectives assumed by them are diverse, but there is a need for prioritising interests and thinking in terms of quality and impact.

During the last Black Sea NGO Forum, organized in Varna in 2016, participants showed a particular interest for legislative transformations which regulate the activity of civil society, focusing on models, solutions and recommendations. A greater demand in this regard came from countries where civil society has experienced pressure from the authorities. Experience in drafting and negotiating various laws with public institutions should be promoted and the results of the studies elaborated by civil society experts need to reach as many people as possible.

The challenges can be overcome by taking personal commitments and trying to encourage continued communication and interaction between participants in various regional initiatives, including here the Black Sea NGO Forum. Also, the presence of the stakeholders should be encouraged in the future. Stakeholders, decision makers and donors should be active actors during the entire transformation process of the environment for civil society. Only a multi-stakeholder approach in the region can produce benefits for all participants and for the civil society from the Black Sea Region.

IV. CONCLUSIONS AND RECOMMENDATIONS

Civil society organisations have an important role in strengthening democracy, however an essential condition is for them to remain free and independent, non-affiliated to any political actors or governmental authorities. For this to happen, the dialogue between the citizens and the authorities must be kept, as well as the ability to criticize and be able to propose solutions for different problems and challenging situations. Respecting the law, the rights of individuals, and particularly the rights of minority groups to express their interests and opinions are the main pillars of a strong civil society. Even if often these conditions are not met, civil society from the Black Sea region continues to work towards achieving their goals.

Following the study of political and social processes in different countries, as well as the new documents that regulate civil society activity, certain setbacks were revealed as well as lack of progress. The analysis of various indicators such as freedom of association, freedom of peaceful assembly or freedom of expression, highlights the main trends and the direction in which civil society evolved in each of the eight countries. Azerbaijan, Russia, Belarus and Turkey have taken steps back in this regard, while Georgia and Moldova remain engaged in reforming processes. Civil society in Armenia and Ukraine are in the process of rethinking their mission, becoming more responsible and dedicated to change.

What do these countries have in common? They have an active civil society, open to interact with similar actors in the region, ready to face new challenges through various national and regional platforms and willing to share best practices, to create sustainability for common projects and to engage other people in working together. The ultimate objective is to contribute to finding solutions to the common problems in the region through various initiatives and at the same time ensuring the necessary conditions for civil society development.

An important element in the development of civil society in the region is the strategic approach of this phenomenon, both regionally and nationally. At regional level, most NGO representatives mention the importance of unifying NGO interests in those areas where support can be received from regional initiatives. Black Sea NGO Forum is one of the platforms where useful ideas, solutions and public policy initiatives can be generated. Availability and openness to regional cooperation exists. A regional approach should be encouraged, not only focusing on a geographical basis, but rather on best practices, experience and capacity consolidation.

In the previous study, the authors identified the interest of civil society organisations in being engaged in horizontal cooperation on specific thematic areas, which can be easily adapted to different national contexts. There are many opportunities for regional cooperation under different frameworks or instruments, but there is the need for more communication and coordination. The interest for regional projects and initiatives is a unifying element that should not be overlooked.

Being an initiative created by civil society for civil society, the Black Sea NGO Forum has the added value of offering a neutral space for regional cooperation. The time is right to provide a greater credibility for Black Sea NGO Forum by asking all participants at the annual forum to commit to this strategic approach that will contribute in the end to the development of civil society in the region.

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