

CSO METER

Assessing the civil society
environment in the Eastern
Partnership countries

Georgia Country Update

Tbilisi
2020

The bottom half of the cover features a large, abstract graphic design. It consists of several overlapping shapes: a large white curved shape on the left, a smaller white curved shape on the right, and a green curved shape at the bottom left. The background is a solid teal blue.



European Center for
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Civil Society Institute (CSI) is one of the leading CSOs in Georgia. Established in 1996, CSI facilitates the formation and development of civil society and democracy by promoting democratic values and the rule of law. CSI also educates social actors with the aim of increasing their civic activism and creating a more enabling environment for civil society. CSI has a strong capacity for advocacy, along with sound experience in facilitating government-CSO relations. CSI experts have advised the Tbilisi and Batumi City Halls, the Ministry of Justice, the Ministry of Finance, and the Parliament of Georgia in developing policies. CSI has monitored the implementation of several state policies and developed reports. Since 1996, CSI has trained several thousand national and local government officials, CSO representatives and community members.

European Center for Not-for-Profit Law (ECNL) Stichting is a leading European resource and research centre in the field of policies and laws affecting civil society. ECNL supports the creation of environments in which people can organise freely and jointly shape and contribute to the development of society. ECNL's activities help to build conditions that enable civil society organisations to operate independently, be financially sustainable, have strong governance, engage in policy and mobilize public support. Beyond shaping policies and advocating for an enabling environment for civil society, ECNL empowers local stakeholders, monitors the implementation of tools and mechanisms, and creates a knowledge base, through research and analysis.

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ABBREVIATIONS

CRRC	Caucasus Research Recourse Center
CSO	Civil Society Organisation
EaP	Eastern Partnership
GDP	Gross Domestic Product
OGP	Open Government Partnership
SE	Social Entrepreneurship

I. EXECUTIVE SUMMARY

This report presents an update to the CSO Meter report produced in 2019 to assess enabling environment for CSOs in Georgia. CSO Meter is a tool developed to assess the civil society environment in Eastern Partnership countries. It consists of a set of standards and indicators in 10 different areas that measure both law and practice. CSO Meter was developed within the framework of the "Monitoring Progress, Empowering Action" project funded by the European Union and implemented by the European Center for Not-for-Profit Law Stichting and a group of non-governmental organisations from the Eastern Partnership countries. Civil Society Institute (CSI) is the project partner in Georgia. The update has been prepared through analysis of legal acts and other materials, including expert interviews. The report reflects the most significant updates in 10 areas of CSO Meter and suggests key priorities for improvement.

Like in many other countries, the **COVID-19 pandemic had significant impact** on the operations of CSOs in Georgia. During the first half of 2020 the CSO environment was largely influenced by COVID-19 preventive measures. State of Emergency was declared throughout the entire territory of Georgia on March 21, 2020 and remained in force till April 21st, 2020. On April 21st, 2020 the State of Emergency was prolonged until May 22, 2020. CSOs were challenged in the following areas: limitation on the right to public participation, limitations on public assemblies and gatherings, limitation the access to and spread of information, limitations on the right to privacy, limitation on the freedom of movement. Severe sanctions were introduced for violations of the state of emergency measures ranging from heavy fines to imprisonment. As of August 2020, the set of restrictions applicable during the state of emergency has been lifted. However, the rules regarding the isolation and/or quarantine remain binding.¹

The most significant changes in CSO legal environment happened since the last CSO Meter report are related to the introduction of the package of legislative acts (drafts and amendments) on Social Entrepreneurship and limitations to rights and freedoms due to the state of emergency. However, overall, the CSO environment has not deteriorated.

The key priorities for CSO environment have not changed significantly since the last CSO Meter report. Introducing the changes to grant issuing legislation and the adoption of State Concept on State Support for CSOs remain as priority issues. The following recommendations are outlined in the report, mostly reflecting the recommendations from the CSO Meter 2019:

¹ Law of Georgia on Public Health, <https://matsne.gov.ge/en/document/view/21784?publication=29>

- Improvement of grant issuing procedures by establishing basic principles and standards of transparency applicable for all grant issuing government entities by state: providing appropriate changes to the law of Georgia on Grants;
- Supporting the implementation of local initiatives by the government of Georgia and ensuring the authorization of municipalities with the right to issue grants: providing appropriate changes to the Local Self-Government Code;
- The adoption of the State Concept on State Support for CSOs by the parliament of Georgia;
- Adoption of the draft law on Social Entrepreneurship and amendments to corresponding legislative acts by the parliament of Georgia.

II. KEY TRENDS

Basic data

Capital: Tbilisi

Population: 3,716,900²

GDP per capita: \$4,769.2 (2019)³

Freedom in the World: 61, partly free⁴

World Press Freedom Index: 28.595

Number of CSOs: Registered organizations - 29,072, active organizations 1049.⁶

CSOs per 10,000 inhabitants: number of registered CSOs per 10,000 of population - 78 and acting CSOs - 3.

Registration fee: 100 GEL (appr. 27 EUR) for one day, 200 GEL (appr. 55 EUR) within the same day.

Key events and developments that have affected civil society since the last report

Like in many other countries, the COVID-19 pandemic had significant impact on the operations of CSOs in Georgia. State of Emergency was declared throughout the entire territory of Georgia on March 21, 2020 and remained in force till April 21st, 2020. On April 21st, 2020 the State of Emergency was prolonged until May 22, 2020. CSOs were challenged in the following areas: limitation on the right to public participation, limitations on public assemblies and gatherings, limitation the access to and spread of information, limitations on the right to privacy, limitation on the freedom of movement. As of August 2020, the set of restrictions applicable during the state of emergency has been lifted. However, the rules regarding the isolation and/or quarantine remain binding. 7

Due to the rapid change of events and of overall environment, CSOs had to quickly adapt to the situation. Some of the organizations increased the number and volume of their activities as a result of smooth and effective transition towards the new mode of operation, whereas others were seriously challenged. However, it is true for the most part that direct access and responsiveness of CSOs towards their beneficiaries was limited.

² National Statistics office of Georgia, <https://www.geostat.ge/ka/modules/categories/316/mosakhleoba-da-demo-grafia>

³ The World Bank, <https://data.worldbank.org/indicator/NY.GDP.PCAP.CD?locations=GE>

⁴ Freedom house, <https://freedomhouse.org/countries/freedom-world/scores>

⁵ World Press Freedom Index, <https://rsf.org/en/ranking>

⁶ csogeorgia.org

⁷ Law of Georgia on Public Health, <https://matsne.gov.ge/en/document/view/21784?publication=29>

Important trends related to civil society

The most significant changes in CSO legal environment happened since the last CSO Meter report are related to the introduction of the package of legislative acts (drafts and amendments) on Social Entrepreneurship and limitations to rights and freedoms due to the state of emergency. However, overall, the CSO environment has not deteriorated. According to the Caucasus Barometer 2019, published by Caucasus Research Resource Center /CRRC, only 3 percent of respondents fully trust CSOs and 17 percent somewhat trust them. This indicates a slight decrease in trust from the Caucasus Barometer 2017, in which 4 percent expressed full trust in CSOs and 19 percent somewhat trusted them.⁸

⁸ 2019 Civil Society Organization Sustainability Index, Georgia, July, 2020; https://storage.googleapis.com/cso-si-dash-board.appspot.com/Reports/CSOSI-Georgia-2019.pdf?fbclid=IwAR1csAuPNrNwaWxWqJ_mAlpyAaMiQUZ9J2wlp-lqTH3dPJTz23pxKurasps

III. KEY UPDATES

This section provides an analysis of the new developments in each of the 10 areas and any progress related to the recommendations from the previous report.

3.1 Freedom of Association

No substantial changes have occurred in this area. Georgian legislation creates extremely liberal preconditions for the establishment and operation of CSOs. Setting up a CSO is a simple and straightforward process. A simplified registration procedure applies not only to CSOs, but to businesses as well.

3.2 Equal Treatment

No substantial changes have occurred in this area. While registration is based on a transparent system that stipulates the establishment of a legal entity, the liquidation process is considered to be overly-complicated; legal entities mostly avoid it and prefer to remain inactive. In terms of other regulatory aspects, CSOs are not in a less favourable position in comparison with businesses. However, the state does not invest to support CSOs' sustainability and development, unlike business sector.

3.3 Access to Funding

No substantial changes have occurred in this area. Georgian CSOs may obtain various forms of funding from national and international resources. They do not face any significant obstacles from the state to seek and receive financial support. CSOs do not have any reporting obligations to the state unless they receive state funding or obtain charity status.

3.4 Freedom of Peaceful Assembly

Freedom of peaceful assembly was limited during the pandemic; however, the overall situation has not changed substantially. Freedom of peaceful assembly is guaranteed by the Constitution of Georgia and international agreements. The main legislative framework is the Law of Georgia on Assembly and Manifestations which regulates the implementation of this right and was amended several times. Despite the liberal approach, enjoyment of this right is often accompanied by challenges. In the past few years, several cases have been recorded when the state failed to properly fulfil its obligation and to protect the individuals' enjoyment of their constitutional right.

Freedom of peaceful assembly fell under the category of restricted fundamental rights and freedoms during COVID.⁹ The regulations addressed restrictions of assemblies and demonstrations in general, as well as in a public space. According to the regulation, assemblies and/or demonstrations were prohibited for the duration of the state of emergency. Several amendments were made to this regulation in response to the course of events. According to the first amendments of March 30, 2020 the restriction of number of physical persons gathering in public space was decreased from 10 to 3. The same rule applied to social events. Further amendments to the regulation were made on March 31, 2020 according to which the obligation of wearing a mask was established for closed public spaces. According to amendments of May 14, 2020 the number of physical persons gathering in the public space was increased to 10. The same expansion of allowance applied to social events.

As for the current legislative framework, two major legislative acts shall be taken into consideration: The Law of Georgia on Public Health and May 23, 2020 Resolution No. 322 of Government of Georgia, enacted on the basis of amendments made to the Law of Georgia on Public Health. The Law of Georgia on Public Health provides regulations regarding the rules of isolation and / or quarantine. The rules provide requirements for gatherings in open and closed spaces regarding the number of attendees and an obligation of wearing a mask where necessary.

3.5 Right to Participation in Decision-Making

The situation under this area has improved. There are various mechanisms in place for participation in decision-making. The decision-making process is partially institutionalized; however, in most cases the participation happens “ad hoc”. On the national and local level CSOs and other individuals have an access to important tools for participation such as: right to petition, submitting comments to draft laws, participation in budgetary process, etc. However, numerous laws and strategic documents are adopted without consultations. In addition, there is low interest among citizens and CSOs in participating in already established mechanisms.

The “Progress on Regulatory Impact Assessment (hereinafter - RIA)”¹⁰ has been adopted. Cooperative initiative of administration of Georgian Government and the Ministry of Justice of Georgia of introducing changes to the Law of Georgia on Norma-

⁹The March 23, 2020 Resolution No. 181 of Government of Georgia on the Approval of Measures to be Implemented in connection with the Prevention of the Spread of the Novel Coronavirus (COVID-19) in Georgia, <https://matsne.gov.ge/en/document/view/4830610?publication=0>

¹⁰ Regulatory impact assessment/RIA is a systemic approach for elaborating an evidence-based policy; A key mechanism for ensuring regulatory quality, which facilitates the determination of policy issues in a structured manner and the assessment of expected positive and negative outcomes of regulatory or non-regulatory actions.

tive Acts has been successfully finalized. The changes to the Law of Georgia on Normative Acts entered into force since January 1st, 2020.¹¹ The changes imply the establishment of RIA and institutionalization of monitoring. According to changes the government of Georgia is obliged to present RIA when initiating the specific draft laws. The new system ensures that the decision-making process is based on the analysis of the situation and Ex Ante evaluation.

The progress of participation in decision-making is also related to the steps made regarding the participatory budget in municipalities. Participatory budget as means of integration of citizens in local municipalities is gradually earning more interest. This mechanism is regulated by the Local Self-Government Code which provides legal foundation of its existence and operation. The issue has been indicated as a priority within the Decentralization Strategy of Government (2020-2025). From practical standpoint, the number of partner municipalities is increasing each year. Partnership around participatory budget implies the elaboration of the model of civil budget, with the participation of local experts and local human resources, enhancement of opportunities and assistance in management process, supporting informational campaign during the specific grant competition. Principles and standards of civic budget have been elaborated by CSOs, experts and the Ministry of Regional Development and Infrastructure of Georgia. The standards and principles apply to the processes of implementing participatory budget.

During the reporting period, there were cases observed when parliament enacted several regulations without consideration of participation of CSOs and activists in the process. The adoption of new Forest Code of Georgia without creating possibilities of participation in the process was criticized.

3.6 Freedom of Expression

No substantial changes have occurred in this area. Freedom of speech and expression is profoundly protected. The law of Georgia on Freedom of Speech and Expression is fully in line with international standards and is considered to be the most progressive law in the region. It elaborates the content of the right to freedom of expression, provides narrow and legitimate aims for restrictions and ensures access to the court in case of violation. In addition, the law regulates the protection of the rights of journalists and whistle-blowers. The Constitutional Court of Georgia has significantly contributed to setting a high standard of freedom of expression. In general, CSOs do not face any obstacles with the right to freely express. The Georgian media landscape is free, vibrant and pluralistic and slightly polarized. The practice shows that the setbacks are derived from the political influences on the leading media outlets.

¹¹ Government of Georgia Ordinance no 35 On the Approval of Regulatory Impact Assessment (RIA) Methodology, <https://matsne.gov.ge/en/document/view/4776100?publication=0>

The process of obtaining public information was suspended during pandemic. The necessity for citizens to receive public information was even more increased given to existing circumstances, however the access was limited without sufficient justification. However, this restriction has been removed for the present moment.

3.7 Right to Privacy

No substantial changes have occurred in this area. According to the national legislation, the right to privacy is guaranteed. The reporting requirements for CSOs generally protect the privacy of the information about individuals, donors and respect the confidentiality of their personal assets. However, the state's secret surveillance has been an issue of concern for many years. Due to the regulations adopted in 2017, the number of entities engaged in secret surveillance increased without sufficient guarantees of independence. A newly established State Agency was vested with excessive authority to conduct surveillance and collect data while oversight mechanism remains weak and formal. Important to note that the law also fails to comply with the Constitutional Court's earlier decision. In 2016, the Constitutional Court of Georgia ruled that the technical access of the State Security Service to telecommunication operator networks was unconstitutional as this access allows unlimited monitoring of data collection. Many politicians, the Public Defender, CSOs, and businesses representatives expressed their worries about potential violations to the right of privacy.

3.8 State Duty to Protect

No substantial changes have occurred in this area. CSOs, their founders and members have effective means of legal defence for all decisions affecting their fundamental rights. CSOs enjoy the right to fair trial in any kind of lawsuits brought by them or against them. On the other hand, in certain cases the state fails to pursue its positive obligation and to ensure that CSOs and associated individuals are fully protected. This is the case of LGBTIQ community, who require special protection from attacks and interference by third parties.

3.9 State Support

No substantial changes have occurred in this area. At the present moment there is a diversified and decentralized state funding system in Georgia. Within this model, each state institution issues funding according to its mandate. The major problem is that the amount of state funding/grant is limited and does not constitute a significant portion in CSOs' overall income. Also, there is a lack of institutional support. The state funding system itself is characterized as chaotic and lacks transparency and effectiveness. Municipalities are not issuing grants.

For ensuring the transparency of grant issuing procedures by government bodies and equipping municipalities with grant issuing rights, a draft package of legislative changes was elaborated with the cooperation of government administration. Proposed changes were initiated to be made within the Law of Georgia on Grants and within the Organic Law of Georgia Local Self-Government Code. The government of Georgia expressed its readiness to launch the work process, however, it has not completed the preparation of draft of initiated changes. Therefore, the package has not been introduced to the parliament yet.

The law on volunteerism was adopted in 2015, however, there is no data or research to examine how the law stimulated the development of volunteerism. Political will has been expressed to launch the process of advancing volunteering as means of active participation. As a result of acknowledging the necessity of tackling practical aspects of volunteering practices, Youth Agency has agreed to cooperate with local and international CSOs to elaborate strategy on Youth Volunteering.

3.10 State-CSO Cooperation

The environment has improved. Georgian Government has made further steps in supporting the efficacy of the Open Government processes on inter-institutional level. The OGP practice in Georgia has developed basically in two primary directions. The first one has been undertaken by the Parliament of Georgia, whereas the second one has been led by the executive government of Georgia.

There are various platforms which create space for government-CSO cooperation. The positive examples of constructive collaboration include: the memorandum between the Parliament and CSOs, Open Government Partnership, structural dialogue between the state and CSOs in the framework of the Georgian National Platform for EaP Civil Society Forum. Moreover, there is a growing tendency to establish committees, working groups, councils on both the national and local level. Their functioning has improved over the years, but tangible results have not been achieved. There are no unified rules or standards to participate in such committees. The level of CSO participation in committees or other consultative bodies depends on the state institution and the topic.

As for the progress of the Parliament's engagement in OGP activities, the Concept on State Support for CSOs' Development has been developed by highly participatory manner together with the wide range of CSOs. The concept document envisages further development of cooperation among State and CSOs. It is built on the Memorandum of Understanding between Georgian Parliament and Civil Society, which was signed in December, 2013. The concept document has become a part of Open Parliament Action Plan as an obligation since 2015. The previous parliament did not succeed with the adoption of the document. It was initiated for the first time in November, 2018. Although the committee hearings were successful, the concept was not adopted during its first initiation.

CSI continued its advocacy and in June, 2020, the concept was initiated again according to the new rules and procedures of the parliament.

The concept is a framework document focused on creating enabling environment for Georgian CSOs. It aims to “foster civil initiatives, set up a development-focused environment for CSOs and ensure their real participation in the decision-making process.” The main objective of the concept is to establish enabling institutional and financial environment for CSOs and commit to CSOs’ participation in the decision-making process. Therefore, the adoption of the concept will further improve the enabling environment for CSOs and will create the better ground of cooperation among State and Civil Society in Georgia.

As for the Government’s engagement in OGP it is worth considering that for the purposes of ensuring the efficient operation of Open Government processes the Georgian Government has established coordinating advisory body - Inter-institutional Coordinating Council of Open Government Georgia (February 13, 2020 Declaration No.110 of Georgian Government). The Council comprises of government officials (Deputy Ministers, The Heads of Legal Entities of Public Law) and representatives of civil society organizations. The Council is equipped with the tasks and authorities of elaborating an OGP Action Plan and monitoring of its implementation. According to new regulations, participation of CSOs in decision-making process has been determined to be essential.

3.11 Other New Developments

Social entrepreneurship is a relatively young and rapidly developing sector in Georgia which gradually attracts the interests of business entities and CSOs across the country. Best practices show how efficiently the society can overcome social challenges through the model of social entrepreneurship. SE is mostly executed by CSOs in Georgia. CSOs view social entrepreneurship as a way of preserving and ensuring their financial sustainability. This is a primary motivation for them to engage in the process of social entrepreneurship. Furthermore, donors also prefer to focus on CSOs when considering projects in social entrepreneurship for several reasons. First of all, according to Georgian legislation acceptance of grant is mainly allowed for CSOs (with some exceptions for business entities). Secondly, donors look forward to cooperate with entities where the focus on social issues will be sustained during the course of operation. This is why CSOs are most appropriate entities for undertaking social entrepreneurs in Georgia. According to recently conducted research, 72% of 90 social enterprises are non-entrepreneurial/non-commercial legal entities. The number of individual social entrepreneurs according to this study is 3%.¹²

There is no unified definition of social entrepreneurship within the legislative frame of Georgia. Local organizations define the activity individually according to the scope of

¹² http://www.civilin.org/pdf/Social_Enterprise_geo.pdf

their programs. Existing social enterprises are diverse. There is a large number of social enterprises supporting the employment of vulnerable groups. Several initiatives of state support of social entrepreneurship have been made on national as well as on local levels. However, there has been no unified practice established in this direction.

For the purposes of institutional regulation and establishment of legal framework for social entrepreneurship a package of legal drafts and amendments has been initiated within the parliament of Georgia. The core document of the package is the draft Law on Social Entrepreneurship. The draft law creates the legal foundations for institutional regulation of and sustainable support for Social Entrepreneurship (adoption of definition of Social Entrepreneurship, attaining the status of Social Enterprise, mandatory requirements for operation and management models, state supportive mechanisms for Social Entrepreneurship, etc.). The package initiated on Social Entrepreneurship also includes amendments to the following legislative acts: The Law of Georgia on Grants, The Law of Georgia on Public Procurement, The Tax Code of Georgia, The law of Georgia on Public Registry, The Law of Georgia on Entrepreneurs.

Amendments to the Labour Code of Georgia and the new Law on Labour Inspection were approved by the Parliament of Georgia in September, 2020. The final reading of the document is expected to take place in late September. According to amendments, higher standards of employee protection are set and the mandate of labour inspection is expanded. Consequently, these changes will have a considerable influence on the operation of CSOs.

IV. KEY PRIORITIES

The overall environment of CSOs has not substantially changed. Some of the fundamental areas were tackled during the State of Emergency. Restrictions imposed by new regulations have been gradually lifted according to the situation in and outside the country. The speed of advocating major initiatives has been seriously affected by the restrictions imposed during the State of Emergency. However, the communication process with relevant authorities has been restored and is vibrant. Most of the recommendations have not been implemented during the reporting period. However, some of them have been addressed. Recommendation regarding the support of implementation of new Estonian Model included in the Tax Code of Georgia were followed by CSOs. CSI has elaborated online courses for civil society organizations and social enterprises. E-learning provided by CSI covers issues of legal, financial and tax administration of these entities. Furthermore, CSI has elaborated the guide for civil society organizations and social enterprises that covers legal, financial and tax issues related to their operation. Recommendation regarding the approval of the Concept on State Support for CSOs has been followed. The document was initiated for the first time in 2018 but was not approved upon its first initiation. CSI continued its advocacy as a result of which in June, 2020 the concept was re-initiated in the parliament of Georgia.

The key recommendations in the Advocacy agenda comprises of the following directions:

- Improvement of grant issuing procedures by establishing basic principles and standards of transparency applicable for all grant issuing government entities by state: providing appropriate changes to the law of Georgia on Grants;
- Supporting the implementation of local initiatives by the government of Georgia and ensuring the authorization of municipalities with the right to issue grants: providing appropriate changes to the Local Self-Government Code;
- The adoption of the State Concept on State Support for CSOs by the parliament of Georgia;
- The adoption of the draft law on Social Entrepreneurship and amendments to corresponding legislative acts by the parliament of Georgia.

V. REFERENCES

LEGISLATION

- Law of Georgia on Public Health, <https://matsne.gov.ge/en/document/view/21784?publication=29>
- The March 23, 2020 Resolution No. 181 of Government of Georgia on the Approval of Measures to be Implemented in connection with the Prevention of the Spread of the Novel Coronavirus (COVID-19) in Georgia, <https://matsne.gov.ge/en/document/view/4830610?publication=0>
- Government of Georgia Ordinance no 35 On the Approval of Regulatory Impact Assessment (RIA) Methodology, <https://matsne.gov.ge/en/document/view/4776100?publication=0>

OTHER MATERIALS

- Social Entrepreneurship in Georgia (Overview of the Georgian Practice), http://www.civilin.org/pdf/Social_Enterprise_geo.pdf
- National Statistics office of Georgia, <https://www.geostat.ge/ka/modules/categories/316/mosakhleoba-da-demografia>
- The World Bank, <https://data.worldbank.org/indicator/NY.GDP.PCAP.CD?locations=GE>
- Freedom house, <https://freedomhouse.org/countries/freedom-world/scores>
- World Press Freedom Index, <https://rsf.org/en/ranking>
- CSO Georgia, <https://csogeorgia.org/ge/organizations/ngo?searchQuery=>

