

CSO METER

A compass to conducive
environment and
CSO empowerment

GEORGIA 2022 COUNTRY REPORT

TBILISI





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Not-for-Profit Law



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CSO Meter 2022: Georgia Country Report



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The 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 solid experience in facilitating government-CSO relations. CSI experts have advised municipalities, the Ministry of Justice, the Ministry of Finance, and the Parliament of Georgia in policy development. CSI has monitored and reported on the implementation of several state policies. Since 1996, CSI has trained several thousand national and local government officials, CSO representatives and community members.

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ABBREVIATIONS & ACRONYMS

AI	Artificial intelligence
AML	Anti-money laundering
CSI	Civil Society Institute
CSO	Civil society organisation
CSR	Corporate social responsibility
CTF	Counter-terrorism financing
EaP	Eastern Partnership
ECNL	European Center for Not-for-Profit Law
EUR	Euro
FARA	Foreign Agents Registration Act
FATF	Financial Action Task Force
GDP	Gross domestic product
GDPR	General Data Protection Regulation
GEL	Georgian Lari
GNCC	Georgian National Communications Commission
GRASS	Georgia's Reforms Associates
GYLA	Georgian Young Lawyers' Association
IDFI	Institute for Development of Freedom of Information
ISFED	International Society for Fair Elections and Democracy
ISP	Internet service provider
KYC	Know Your Customer
LEPL	Legal entity of public law
LGBTQ+	Lesbian, Gay, Bisexual, Transgender, Queer or Questioning, Intersex, Asexual, Ally, etc.
MONEYVAL	Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism
NIS	Network & Information Systems
NNLE	Non-entrepreneurial Non-commercial legal entity
NPO	Nonprofit organisation
OGP	Open Government Partnership
OTA	Operational-Technical Agency
USD	US Dollar
VAT	Value Added Tax

I. EXECUTIVE SUMMARY

Country context and important trends relevant to the civil society environment

In 2022, Georgian civil society has been marked by volatile geopolitical events, dynamic legislative and practical changes, and increased systemic verbal attacks on civil society organisation (CSO) representatives. Together, these developments signal a potentially shrinking civic space in Georgia. Russia's full-scale war in Ukraine, launched in February 2022, not only created disarray in the world's geopolitical discourse, but also substantially impacted the domestic CSO environments throughout the Eastern Partnership (EaP) region, including in Georgia.

Recognising Georgia's own history of Russian invasion, as well as the ongoing 'creeping occupation' of Georgian territories by Russia, Georgian CSOs were deeply aware of the important role that CSOs can play in alleviating the severe impact of the war on ordinary Ukrainians. Consequently, right after the beginning of the war, many Georgian CSOs shifted the focus of their work and primarily dedicated themselves to providing the necessary humanitarian and legal assistance for people in Ukraine, as well as to Ukrainian refugees fleeing to Georgia. Wary of Georgia's own national security, this process also inherently heightened CSOs' interest in Georgia's foreign affairs, national security, and other related issues. In addition to Ukrainian refugees fleeing the Russian invasion, Georgia became a desirable destination for Belarusian and Russian CSO representatives and activists fleeing political persecution, economic sanctions,¹ and, at a later stage, military conscription.² Some CSOs indicated allegedly discriminatory border checks and entry refusals against North Caucasian activists,³ critical Russian journalists,⁴ and opposition politicians.⁵ Belarusian activists who already reside in Georgia and have registered CSOs in the country also report obstacles to opening Georgian bank accounts (due to the economic sanctions related to Russia's war) which has subsequently hindered the operation of legitimate Georgian-registered Belarusian CSOs.⁶

¹ After the start of the war in Ukraine, in March 2022, 16,669 citizens of Ukraine, 43,152 citizens of Russia and 19,898 citizens of Belarus entered Georgia. IDFI, 28 April 2022, 'Statistics of crossing the Georgian border by citizens of Ukraine, Russia and Belarus - March 2022', https://idfi.ge/ge/border_crossing_statistics_of_citizens_of_ukraine_russia_and_belarus (in Georgian).

The war in Ukraine has also accelerated Georgia's EU accession process and Georgia officially applied for EU membership on 3 March 2022, alongside Ukraine and Moldova.⁷ Unlike Ukraine and Moldova, Georgia did not receive EU candidate country status. The EU institutions have provided a list of twelve priorities (including the involvement of civil society in decision-making processes at all levels) and candidate country status can only follow once the priorities are addressed.⁸ In June 2022, activists and CSOs organised a series of large-scale rallies with the slogan 'Home, to Europe'. The rallies criticised the Georgian Government for insufficient actions towards securing Georgia's EU candidacy status and called for a technical interim government in charge of implementing the twelve priorities set by the EU Commission for Georgia's candidacy status to be obtained.⁹ After those events, the Government's stance against CSOs hardened, illustrated by allegations, verbal attacks, and the intentional distribution of disinformation against CSOs. This explains why Area 8 (State Duty to Protect) of this report has not obtained a higher score, despite some advances in other standards in this area, such as joint government-CSO efforts to comply with Financial Action Task Force (FATF) recommendations.

Overall, 2022 was a year of significant political and social events that sowed the seeds of change in the civil society environment in Georgia from both a legal and practical standpoint, the fruits of which will be seen in the near future.

² NBC News, 27 September 2022, 'Russians fearing conscription flood across border to Georgia and Mongolia', <https://www.nbcnews.com/news/world/russians-fearing-conscription-flood-border-georgia-mongolia-rcna49487>.

³ Rights Georgia, 29 June 2022, 'Russian blogger Insa Oguz has arrived in the Republic of Lithuania', <https://www.rights.ge/en/new/137>; Social Justice Center, et al. 28 September 2022, 'The allegedly discriminatory border checks against North Caucasians are alarming', <https://socialjustice.org.ge/en/products/shemashfotebelia-chrdiloet-kavkasielebis-mimart-sazghvarze-shemotsmebis-savaraudo-diskriminatsiuli-manera>.

⁴ Russian journalist, and anchor of independent TV Rain (*Dozhd*), Mikhail Fishman has publicly spoken about Georgian authorities refusing him entry to the country, while his family was let in. Civil Georgia. 7 March 2022, 'TV Dozhd Journalist Allegedly Denied Georgia Entry', <https://civil.ge/archives/477799>; Contrary to Fishman's case, the managing editor of TV Rain, Eka Kotrikadze, was allowed entry into Georgia. Formula News, 7 March 2022, <https://www.facebook.com/watch/?v=983735645682485>.

⁵ For instance, in January 2022, Russian opposition leader, former MP Dmitry Gudkov, was refused an entry in Georgia, <https://civil.ge/archives/469920>; In February 2022, another Russian opposition politician, Andrey Davydov, has claimed he was barred from entering Georgia 'without explanation'; Civil.ge, 'Another Russian Opposition Politician Allegedly Refused Georgia Entry', <https://civil.ge/archives/473450>. In August 2021, Georgia refused the entry to Lyubov Sobol, a close ally of jailed Russian opposition leader Alexei Navalny, <https://civil.ge/archives/451334>.

⁶ For more information, see section 3.1 (Freedom of Association).

⁷ DW, 3 March 2022, 'Georgia formally applies for EU membership', <https://www.dw.com/en/georgia-formally-applies-for-eu-membership/a-61001839>.

⁸ European Commission, Opinion on the EU membership application by Georgia, https://ec.europa.eu/commission/presscorner/detail/en/qanda_22_3800.

⁹ OC Media, 24 June 2022, 'Georgian protesters demand government resignation following EU candidacy denial', <https://oc-media.org/georgian-protesters-demand-Government-resignation-following-eu-candidacy-denial/>.

Key developments in the civil society environment

Overall, there was no significant change in the CSO environment in Georgia in 2022 as compared to 2021. As a result of increased registration fees, changes to the law on entrepreneurship, and complications during the bank account opening process, there have been some negative developments for CSOs which have decreased the scores in the areas of Freedom of Association (in law, from 6.2 in 2021 to 6.1 in 2022), Equal Treatment (in practice, from 5.4 in 2021 to 5.3 in 2022) and Right to Privacy (in practice, from 3.1 in 2021 to 3.0 in 2022). The three areas with the highest overall scores remain the same as in 2021: Area 1 (Freedom of Association), Area 2 (Equal Treatment) and Area 3 (Access to Funding). The three lowest-scoring areas also remain Area 7 (Right to Privacy), Area 9 (State Support) and Area 10 (CSO-State Cooperation) due to the fact that no subsequent developments or improvements have occurred to address the issues and difficulties identified in these areas in previous reports.

In addition, freedom of expression and the right to peaceful assembly are still not adequately safeguarded against arbitrary infringements, which often result from incorrect interpretation of the Code of Administrative Offences. The state continues to fail to prevent threats and obstacles against activists and LGBTQ+ organisations from right-wing extremist groups. This may be ascribed in part to the lack of effective investigation of the cascade of activities carried out by these groups' leaders.

Advances in areas such as participation in decision-making cover cases of methodology and strategy revision for conducting successful public consultations on policy papers.¹⁰ On the other hand, this development has not yet been properly translated into practice. Area 8 (State Duty to Protect) identifies positive developments, such as the beginning of productive engagement between CSO stakeholders and state officials accountable for the country's compliance with FATF guidelines. Paradoxically, the same area underlines a rise in the frequency of instances of government leaders issuing unsolicited and negative remarks about Georgian CSOs. It seems that the civil society sector's reaction to Georgia's EU membership application process became the catalyst for verbal attacks by government representatives and pro-government media outlets. The former have accused CSOs of advocating against Georgia's EU candidate status, alleging partisan biases and a lack of financial transparency and accountability in these organisations, referring to them as 'a rich clan of NGOs.'¹¹

Furthermore, during this reporting period, the Government has been more hostile to engaging in political dialogue with critical watchdogs (in some cases, publicly blocking a specific organisation's participation), while remaining open to cooperating with CSOs on less politically-sensitive reforms. Amid increased verbal attacks on CSOs, a newly-formed

¹⁰ For more information, see section 3.5 (Right to Participation in Decision-Making).

¹¹ CSO Meter, 'Georgia: Increased attacks on watchdog organisations', <https://csometer.info/updates/georgia-increased-attacks-watchdog-organisations>.

political movement, People's Power, which formally separated from the ruling party, Georgian Dream, called for a 'strict legal framework' on foreign funding of CSOs and announced that it would be submitting a legislative proposal to regulate such funding.¹² According to People's Power, CSO foreign funding inherently represents a 'threat' to Georgia's sovereignty.¹³ The exact nature of the CSO funding proposal is not yet known. However, People's Power representatives state that they will base these regulations on the 'best Western practices', specifically referring to the U.S. Foreign Agents Registration Act (FARA). FARA was originally enacted in 1938, primarily to counter Nazi propaganda,¹⁴ but has been repeatedly weaponised to target nonprofits, activists, and others in the U.S.¹⁵ It is important to note that the legislative proposal was forcefully pushed by People's Power in 2022, jeopardizing Georgia's image, severely harming the relationship between the CSO sector and the state, and endangering the country's path towards EU membership.

In the domain of the right of privacy, the Government has only partially addressed last year's recommendation for an effective investigation into illegal mass surveillance of CSO representatives and other stakeholders. While it has granted victim status to all relevant actors, the Prosecutor's Office has yet to ensure that victims have full access to case files, nor has this investigation established any criminal liability for the perpetrators of illegal mass surveillance.

Some practice-based gains in the area of digital rights have been observed, leading to a more favourable appraisal of the area in general.

Key priorities

Overall, in 2022, civil society in Georgia enjoyed a generally enabling environment. However, continuous verbal attacks on CSOs, the initiation of an undemocratic law and restrictions on the participation of critical CSOs in decision-making processes signal a potentially deteriorating CSO environment.

Since the previous reporting period (2021), Georgia has only taken gradual measures to reform the legal framework and related practices, and the majority of concerns mentioned in the previous report have yet to be remedied. As a result, previous recommendations remain pertinent in order to create a truly supportive climate for Georgian CSOs. The following seven priority initiatives for improving the civil society environment are recommended:

¹² CSO Meter, 'Georgia: Controversial CSO foreign funding proposal', <https://cso-meter.info/updates/georgia-controversial-cso-foreign-funding-proposal>.

¹³ Ibid.

¹⁴ FARA requires certain agents of foreign principals who are engaged in political activities or other activities specified under the statute to make periodic public disclosure of their relationship with the foreign principal, as well as activities, receipts and disbursements in support of those activities, <https://www.justice.gov/nsd-fara/fara-index-and-act>.

¹⁵ ICNL, Foreign Agents Registration Act, <https://www.icnl.org/our-work/us-program/foreign-agents-registration-act>.

1. The Government of Georgia should design and adopt unified standards/rules on public consultations of draft laws and other normative acts at the national level, including by clearly setting participation as the obligatory stage in the elaboration of decrees, draft laws, strategic documents, and other instruments and establish redress mechanisms for their violation;
2. State representatives, government authorities and other representatives of the ruling party should stop attacking and harassing CSOs, must strengthen the participation of CSOs critical of the Government in the civil sector and ensure the existence of a safe and free environment for the activities of CSOs and human rights defenders;
3. The Government should urgently introduce the necessary legal amendments to create comprehensive legal safeguards for personal data processing and covert investigative actions, including reforming the State Security Service of Georgia and increasing its oversight. The Government should also ensure that CSOs are consulted with and engaged in the reform process right from its initial stages;
4. To guarantee compliance with MONEYVAL guidelines, while avoiding undue deterioration of the CSO environment, the LEPL Financial Monitoring Service of Georgia should continue communication with CSO representatives and assure their involvement at every step of its activities;
5. The Ministry of Justice should clarify instructions pertaining to legal entity registration procedures and issue clear guidance regarding specific obligations related to changes to registered data, how changes in legislation on entrepreneurship affect non-entrepreneurial entities, what specific responsibilities are meant for CSOs under the new law, and what the expected legal consequences for CSOs are;
6. A registering entity should only be required to fulfil procedural requirements stipulated in the Law on Entrepreneurship if these are directly allowed by the Civil Code of Georgia and relate to and make sense in relation to CSOs; and
7. The Prosecutor's Office should prioritize and promptly investigate alleged illegal and arbitrary surveillance of CSO representatives, journalists, and others, and ensure that all relevant actors are granted victims status and have access to case files, at the same time updating the public on the progress of investigations.

II. GEORGIA – IN NUMBERS

Population: 3,688,600 (2022)¹⁶ | GDP per capita: 6,671.90 USD (2022)¹⁷ | Number of CSOs: Registered organisations 29,051;¹⁸ active organisations 1,247¹⁹ | CSOs per 10,000 inhabitants: 3 | Registration fee for a CSO: 200 GEL (approx. 70 EUR) or 400 GEL (approx. 140 EUR) for the accelerated procedure | Freedom in the World Ranking: Partly Free (58/100)²⁰ | World Press Freedom Index: 59.3 (89 out of 180 countries, 2022)²¹



Country score: 4.8
 Legislation: 5.2
 Practice: 4.4 ↑

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

Areas	Overall	Legislation	Practice
Freedom of association	6.1	6.1 ↓	6.0
Equal treatment	5.6	5.8	5.3 ↓
Access to funding	5.7	6.0	5.3
Freedom of peaceful assembly	4.6	5.2	3.9
Right to participation in decision making	4.8	5.3 ↑	4.3
Freedom of expression	4.9	5.6	4.1
Right to privacy	3.8 ↓	4.6	3.0 ↓
State duty to protect	4.5 ↑	5.0 ↑	3.9
State support	4.2	4.4	4.0
State-CSO cooperation	4.1	4.2	3.9
Digital rights	4.9 ↑	5.1 ↑	4.7 ↑

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

¹⁶ National Statistics Office of Georgia, <https://www.geostat.ge/en/modules/categories/316/population-and-demography>.

¹⁷ National Statistics Office of Georgia, <https://www.geostat.ge/en/modules/categories/23/gross-domestic-product-gdp>.

¹⁸ CSO Georgia, List of registered CSOs, https://csogeorgia.org/storage/app/media/organisation_list.pdf

¹⁹ CSO Georgia, <https://csogeorgia.org/en/>.

²⁰ Freedom House, Freedom in the World 2022, <https://freedomhouse.org/country/georgia/freedom-world/2022>.

²¹ Reporters Without Borders, Press Freedom Index, <https://rsf.org/en/index>.

III. FINDINGS

3.1 Freedom of Association

Overall score per area: **6.1 / 7**

Legislation: **6.1 / 7**

Practice: **6.0 / 7**

Georgia ensures and respects everyone's freedom of association in law and in practice. The overall score in this area remains the same as for 2021. However, the legislation score has decreased from 6.2 in 2021, to 6.1. This is a result of the incorporation of new, ambiguous procedural regulations for the establishment and registration of commercial and non-profit entities that are yet to be tested in practice, as well as the increase in registration fees for CSOs. New regulations affect the registration requirements, the cost of CSO establishment, and they also oblige existing CSOs to amend their registered data in compliance with new standards within stipulated timeframes. Persons interested in establishing an organisation now have to be more detail-oriented and follow particular rules when formulating the organisation's management or choosing its name. The cost for registering a nonprofit legal entity and changing registration data has been increased.

Despite these negative aspects, the amendments do have positive features. For example, every entity shall have a digital platform activated by the registry, which can be used for online correspondence and communication. To some extent, this responds to the recommendation from the 2021 report that online communication tools and resources for registration be developed and promoted. However, the recommendation to enable exact statistical information about active CSOs to be obtained remains unaddressed by the state. Legislation still allows anybody to establish an organisation in Georgia. However, Belarusian CSO representatives seem to struggle at the stage of actual commencement of operations due to a problem related to opening a bank account. Aside from the aforementioned, there have been no legal or practical changes to the establishment process, operation regulations, territorial or geographical operation limits or liquidation process for CSOs.

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

Freedom of Association is guaranteed for everyone by the Georgian Constitution,²² implying that any infringement to it must be carried out in accordance with the principles of legality, proportionality and necessity.²³ The main legal acts governing the procedures for the establishment and operation of CSOs are the Civil Code of Georgia and the Law on Entrepreneurship. A new version of the latter came into force on 1 January 2022.²⁴ Meanwhile, the Organic Law of Georgia on the Suspension and Prohibition of Activities of

²² Constitution of Georgia, Art. 22, <https://matsne.gov.ge/en/document/view/30346?publication=36>.

²³ 'Association may only be dissolved by its own or a court decision in cases defined by law and in accordance with the established procedure', Constitution of Georgia, Art. 22(2).

²⁴ Civil Code of Georgia, <https://matsne.gov.ge/en/document/view/31702>.

Public Associations lists prohibited activities of a public association, including non-entrepreneurial non-commercial legal entities (NNLEs).²⁵

The general rule implies that any local or foreign natural person with full legal capacity,²⁶ or any local or foreign legal person,²⁷ can establish a CSO, become a member of one, or serve on the body responsible for its management (with the exception that the law contains limitations for public servants²⁸ and children between the ages of 14 and 18 for the reasons of prevention of conflict of interest and limited legal capability).

Despite having the possibility to legally establish a CSO, due to an inability to open bank accounts, CSO representatives from Belarus were unable to begin activities in Georgia as individual activists or newly created organisations.²⁹ The issue was raised soon after the start of the Russia-Ukraine war, following the flow of many oppressed representatives of Belarusian civil society willing to start operations from Georgia. It has been stated unofficially that due to the country's positioning in regard to the war in Ukraine, Belarus is seen as a high-risk jurisdiction for banking purposes.³⁰ Involved parties who have been denied bank accounts have disclosed during interview that no legal complaints addressed to banks' administrations appear to have been successful. Since the relevant legislation gives commercial banks the power to refuse applications to open accounts without justification³¹ and requires the financial industry to take precautionary measures when dealing with customers from foreign jurisdictions,³² it is questionable whether legal complaints will be resolved in favour of the applicants, even if they are brought before the National Bank of Georgia or the courts. Practice will develop depending on whether or not legal action is successful and, if yes, for how long the status quo remains after. Currently, as a consequence of the absence of case-by-case examination of applications for account opening from foreigners, each applicant, notwithstanding the real degree of a risk they pose, is predestined for denial or, in the best-case scenario, for involvement in a lengthy, complicated bureaucratic procedure, the outcome of which is not foreseeable. This deteriorates the operational environment for CSOs which are established by foreign founders in Georgia.

There are no restrictions on the number of founders of a CSO, nor are there any required criteria in terms of minimum capital, operating forms (online or offline), or legal or organisational structure (registered or unregistered, union, initiative group). The only requirement referring to the appointment of a representative body, which, as practise shows, is mandatory for all registered organisations, stipulates that the director or representative of

²⁵ The NNLE is the only official organisational and legal form in which registered CSOs can operate in Georgia.

²⁶ In Georgia, full legal capacity is attained when a person reaches the age of 18.

²⁷ Legal entities that are either private or public, including government and municipal bodies.

²⁸ A qualified public officer, a person recruited on the basis of an agreement under public law, a person recruited on the basis of an employment agreement and persons working in an institution equivalent to a state institution.

²⁹ Information was obtained on the basis of an interview, received directly from the stakeholders from Belarus or Georgia involved in the process of registration/establishment.

³⁰ The statement was given by a Georgian Bank representative (operator) when explaining the current criteria and necessary papers for opening a bank account.

³¹ Law of Georgia on Commercial Bank Activities, Art. 21¹(4,5).

<https://matsne.gov.ge/en/document/view/32962?publication=37> (consolidated version is available only in Georgian).

³² Ibid. 21¹(1,2,3).

an entity cannot be initially appointed for longer than 3 years.³³ If the candidate is not changed after the first term expires, the term may be extended automatically. This became relevant once amendments to the entrepreneurship law and related legislative acts went into effect and, without explaining the legal interest behind it, CSOs were compelled to do the same as corporate organisations.³⁴

The majority of CSOs in Georgia are registered with the Ministry of Justice's National Agency of Public Registry as NNLEs.

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

CSO registration is carried out in accordance with the procedures outlined in Georgia's Civil Code, the Law on Entrepreneurship,³⁵ and the Order of the Minister of Justice on Approval of the Instruction on Registration of Entrepreneurs and Non-Entrepreneurial (Non-Commercial) Legal Entities.³⁶ Changes to the Law on Entrepreneurship introduced new procedural regulations for the establishment and registration of commercial and non-profit entities, affecting the registration requirements for and cost of CSO establishment. The main registration document is currently known as the 'founder's agreement', to which the organisation's charter is appended. The Registry has adopted a generic sample of the charter and founder's agreement for business entities.³⁷ Drafts of these are accessible to everybody and include all of the essential fields for completion.³⁸ The sample founder's agreement now specifies that every legal entity must have an official Georgian phone number as part of its contact information. A CSO is also required to appoint someone to manage the organisation's online digital account, which is activated by the Registry via the *My.gov.ge* platform.³⁹ This account must be used for official correspondence between the CSO or company and government officials. These changes apply not only to new registrations but also to existing entities. Every registered enterprise/organisation must ensure that it complies with the requirements of a new law and that registered data is updated in accordance with it within two years of its implementation.⁴⁰

While legislative amendments are clearer and the associated legal consequences are more predictable for commercial entities, CSOs are left with many unanswered questions, such as to what extent the amendments affect CSOs, what actions must be taken by the organisations, and what actual consequences can be imposed if those obligations are not met. Such

³³ Law of Georgia on Entrepreneurs, Art. 44(2).

³⁴ A decision from 29 June 2022 where registration of an NNLE was refused for the cited reasons can be found (in Georgian) [here](#).

³⁵ Law of Georgia on Entrepreneurs, <https://matsne.gov.ge/ka/document/view/5230186?publication=1> (consolidated version is available only in Georgian). As of 1 January 2022, the new law on entrepreneurship, as well as a new order from the Ministry, entered into force.

³⁶ Instruction on Registration of Entrepreneurs and Non-Entrepreneurial (Non-Commercial) Legal Entities.

³⁷ On approval of standard charters of business societies (in Georgian), <https://matsne.gov.ge/ka/document/view/5275911?publication=0>.

³⁸ Consolidated samples are available in Georgian: <https://napr.gov.ge/required-info>; some documents can be found in English <https://napr.gov.ge/required-info>.

³⁹ Law of Georgia on Entrepreneurs, Art. 254(2).

⁴⁰ Ibid., Art. 254(1).

uncertainty may create difficulties for CSOs and in some cases make compliance impracticable. It is hard for CSOs to adequately evaluate risks, since legislation does not provide clear answers and practise is still in its early stages. Regardless, certain details are already observed. For example, it is clear that CSOs must take into consideration new rules when choosing their name.⁴¹ Previously, an NNLE was obligated to ensure that the new organisation did not use the name of an existing registered organisation. Now, it is also prohibited to use words or phrases that advocate the overthrow or violent change of Georgia's constitutional order, the violation of the country's independence or its territorial integrity, or that serve to incite national, sectarian, religious or social strife, war, or terrorism. Words that indicate the approval of and/or the propagation of violence and/or breaches of Georgian law are also prohibited. It is prohibited to use a name that incites resentment on the basis of any discriminatory ground, as well as one that is contrary to public order and generally accepted moral standards.⁴² This creates a basis to refuse the registration of an entity if the chosen name is evaluated as contradictory to the public order, against moral and ethical standards or is indicating that an organisation under such a name performs unlawful activities. Since the law does not specify anything other than what is prohibited, and it has not been interpreted in any recent court cases, it is unclear which standards must be applied when determining whether certain wording is 'against moral and ethical principles.' Considering that this creates ambiguity and leaves room for subjectivity, the changes can be evaluated as negative for CSOs.

In addition, for moving forward with the compliance process, each entity must now appoint a person to manage and activate the digital platform, no director can be appointed for more than three years initially and every entity must make sure that its registered data, including its charter, corresponds to the factual reality. Otherwise, the registering body must extend the entity's compliance period by three months from the date of notification. The registration will be cancelled if the defect causing non-compliance is not corrected within the specified timeframe.⁴³ Only if it becomes clear after cancelling its registration that the entity still has some property or assets is it liquidated. It is unclear what particular actions the Registry will take, how it intends to assess the compliance of all registered entities after a specified term, and whether cancellation or liquidation will actually occur, but the statutory framework sets out the sequence.⁴⁴ Although encouraging the registration of updated data and increasing the degree of digitalization in CSOs' operations is important, it is debatable whether registration cancellation/liquidation is the proportional outcome for non-compliance. The issue is problematic particularly for CSOs, whose operations must only be restricted, cancelled, or liquidated under Georgia's Organic Law on the Suspension and Prohibition of Activities of Public Associations.

The fee for registering an entity and making changes to its registered data has been doubled, worsening conditions for those seeking to register an entity. Although less cost-effective, the

⁴¹ Ibid., Art. 16(2) Instruction on Registration of Entrepreneurs and Non-Entrepreneurial (Non-Commercial) Legal Entities (Order of the Minister of Justice of Georgia, 31/12/2021, N797), Art. 21.

⁴² Ibid.

⁴³ Law of Georgia on Entrepreneurs, Art. 254(2).

⁴⁴ Ibid., Art. 254(1).

procedure itself is still relatively easy, takes a maximum of one working day and can be completed in person or online. The fact that the Registry publishes information about the registration procedure's progress proactively ensures transparency.⁴⁵ The Registry is obliged to be impartial, act on the basis of law and justify its decision if postponing or rejecting the registration.⁴⁶ The grounds for refusal to register are directly stipulated by law.⁴⁷ Although the formulation of those grounds leaves room for interpretation and can cover different cases, the law is clear enough that the applicant can understand what the general requirements for successful registration are. The decision has to be published within one working day.⁴⁸ If the decision is postponed, the applicant will have one month to remedy the mistake and resume the application. If the final decision is not satisfactory to the applicant, the applicant has one month to appeal to a higher administrative body (the Georgian Ministry of Justice). If *this* appeal is unsuccessful, the case can be brought to court so that an impartial and unbiased judicial review can be provided within a fair time period.

Depending on the service chosen by the applicant, the registration duration varies. Using the normal procedure, establishing and registering a CSO takes one working day (this is the maximum registration time) and the registration price for this service has increased to 200 GEL (approx. 70 EUR) from 100 GEL (approx. 35 EUR) in 2021. For the price of 400 GEL (approx. 140 EUR), increased from 200 GEL (approx. 140 EUR) in 2021, registration can be performed on the same day as the application via an accelerated process. Any changes to the CSO's registered information (for example, the name or residential address of any CSO director or board member) must be properly altered (mainly with the founder's agreement) and newly registered. The procedure and fee for changing previously-registered information are the same as for the first registration.

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

CSOs are free to determine their own objectives and serve a variety of lawful goals simultaneously. According to the law, an NNLE may not engage in substantially commercial activities, while non-essential commercial activities that serve non-commercial goals are allowed, meaning that while its operations may generate profits, its members or founders are not allowed to divide and distribute those profits between themselves.⁴⁹ CSOs are free to make decisions according to their own priorities without excessive intrusion from the governing authorities. CSOs are allowed to serve desired immaterial goals (even if they are not expressly stated in their statute)⁵⁰ unless these contradict applicable laws, recognised moral standards, or Georgia's constitutional and legal principles.⁵¹ There is no evidence that the existing

⁴⁵ National Agency of Public Registry, https://enreg.reestri.gov.ge/main.php?m=new_index.

⁴⁶ Order of the Minister of Justice on Approval of the Instruction on Registration of Entrepreneurs and Non-Entrepreneurial (Non-Commercial) Legal Entities, Art. 14 and 15, <https://matsne.gov.ge/ka/document/view/88696?publication=0>.

⁴⁷ Order of the Minister of Justice on Approval of the Instruction on Registration of Entrepreneurs and Non-Entrepreneurial (Non-Commercial) Legal Entities, Art. 16, <https://matsne.gov.ge/ka/document/view/88696?publication=0>.

⁴⁸ Ibid.

⁴⁹ Only minor, non-commercial activities that serve non-commercial goals are permitted (with no opportunity for members and founders to share income).

⁵⁰ Georgian Civil Code Art. 25(2), <https://www.matsne.gov.ge/en/document/view/31702?publication=115>.

⁵¹ Ibid.

regulations impede the free establishment and operation of CSOs in practice. Political activity is not on the list of prohibited activities; there are, however, certain limitations on such activities. CSOs may help political parties for the goal of institutional development (for example, by organising or participating in educational programmes, seminars, public conferences, and so on), but they may not promote or support a specific political party.⁵²

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

As previously stated, recent legislative changes create legal grounds for revoking the registration of those CSOs that fail to comply with the revised regulations. It is debatable whether registration cancellation or liquidation is the proportional outcome for noncompliance caused by inaccuracies in registration data, particularly for CSOs, whose operations can only be restricted, cancelled, or liquidated under Georgia's Organic Law on the Suspension and Prohibition of Activities of Public Associations. This is the Law that must determine the authorised bodies and list all types of sanctions relevant for public associations, including CSOs.⁵³ According to the Law, only the court is authorised to ban or temporarily suspend the activities of a CSO.⁵⁴ Lawful causes for the temporary suspension or prohibition of a CSO's activities are (i) the conduct of essentially commercial activities (which, per the interpretation of a court, takes place when profit generated from entrepreneurial activities is distributed among the members of the organisation) and/or (ii) seeking to overthrow or forcibly change the constitutional order of Georgia, to infringe on the independence and territorial integrity of the country, to propagandize war or violence, to incite national, ethnic, religious, or social strife, or forming or having formed an armed group. A public association may also be deprived of its right to carry out operations and dissolved as a result of a conviction judgement (in the context of a criminal prosecution) that has gone into legal effect against it. This refers to a conviction for a specific activity that is prohibited by Georgia's Criminal Code.⁵⁵ Therefore, the preconditions leading to the suspension or prohibition of the activities of public associations are clear and legally determined. It is also directly indicated by the Law⁵⁶ that the decision of a court to suspend or ban a public association may be appealed in compliance with the procedures determined by Georgian legislation.⁵⁷ Although these mechanisms exist, there is no recent data showing that the activities of any CSO have been suspended or banned in practice.

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

⁵² Organic Law of Georgia on Political Unions of Citizens, Art. 25, 25¹(5), 26(1), <https://matsne.gov.ge/en/document/view/28324?publication=32>.

⁵³ Law of Georgia on the Suspension and Prohibition of Activities of Public Associations, <https://matsne.gov.ge/en/document/view/29950?publication=2>.

⁵⁴ Ibid.

⁵⁵ Criminal Code of Georgia Art. 157, 186, 192(1), 195(1), 221, <https://matsne.gov.ge/en/document/view/16426?publication=235>.

⁵⁶ Organic Law of Georgia on The Suspension and Prohibition of Activities of Public Associations, <https://matsne.gov.ge/en/document/view/29950?publication=2>.

⁵⁷ Ibid.

According to the Civil Code of Georgia, CSOs are free to determine their internal governance, their management (with the consideration that recent amendments limit a director's initial authority period to a maximum of 3 years, with the ability to prolong the initial period after its expiry), the structure of the organisation and its operations.⁵⁸ Other than being responsible for assessment of an application at the registration stage and receiving normal tax disclosures in accordance with Georgia's tax legislation, the law does not allow the state to intervene in CSOs' internal operations and does not offer any practical tools for such involvement. All tax-related obligations are defined in Georgia's tax legislation and no practical examples show that the related reporting processes are overly burdensome. CSOs can readily meet their reporting obligations online and/or offline, since these are quite simple and minimal, only requiring the submission of an annual declarations to the revenue services. Therefore, CSOs are not subject to strict control from the state and practice does not indicate otherwise. The termination/liquidation of a CSO is the sole procedure regarded as unduly onerous owing to the involvement of the tax authorities. Following the decision to liquidate, the tax authorities must verify that organisation's financial state enables the liquidation and that there is no debt to the Government. According to the statute, the maximum time period for termination is four months and this may be extended for one month at the request of the tax authorities. For those reasons, CSOs often want to avoid the lengthy and difficult liquidation procedure, resulting in thousands of registered but non-functioning CSOs.

Specific recommendations under Area 1:

- The Government of Georgia should initiate amendments to termination procedures to enable simplified and faster liquidation for CSOs;
- The Ministry of Justice of Georgia should clarify instructions pertaining to legal entity registration procedures and issue clear guidance regarding specific obligations related to changes to registered data, how changes in legislation on entrepreneurship affect non-entrepreneurial entities, what specific responsibilities are meant for CSOs under the new law, and what the expected legal consequences for CSOs are;
- A registering entity should only be required to fulfil procedural requirements stipulated in the Law on Entrepreneurship if these are directly allowed by the Civil Code of Georgia and relate to and make sense in relation to CSOs;
- Guidelines should be established, and instructions must be included in the bylaw, on the standards that must be followed when deciding on the legality of a chosen CSO name; and
- The Ministry of Justice should develop mechanisms for the Registering Body to identify and differentiate CSOs from other NNLEs and therefore enable there to be precise statistical information about active CSOs.

⁵⁸ Georgian Civil Code Art. 25(2).

3.2 Equal Treatment

Overall score per area: **5.6 / 7**

Legislation: **5.8 / 7**

Practice: **5.3 / 7**

In terms of equal treatment, no legislative changes have occurred, preserving the overall score from 2021 and implying that the specific recommendations from past years in this area, such as providing the same VAT refund schedules for both CSO and corporate entities, will continue to be applicable in 2022-2023. Some cases identified within the reporting period show that financial institutions make a distinction between CSOs with Georgian management and foreign management when deciding whether to open a bank account for an entity. Rather than a discriminatory legislative environment, this appears to be caused by the overly-broad anti-money laundering (AML) and counter-terrorism financing (CTF) laws that necessitate a full analysis of every beneficiary of the organisation. The main examples that indicate unequal treatment towards certain CSOs during the reporting period are the refusal to open bank accounts for organisations and individuals connected to Belarus. Recent practice shows that banks are imposing extra fees on such applicants for conducting intensive background checks and are then mostly rejecting their request to open bank accounts. Rather than a legislative issue, this seems to be a short-term occurrence caused by the impact of global political developments. This is reflected in the decreasing score in this area for practice from 5.4 in 2021 to 5.3 in 2022. The changes in registration and establishment procedures described under Area 1 above impacted both CSOs and businesses equally, keeping the environment more or less equal in this regard.

There has been an increase in cases in which government representatives have verbally attacked certain CSOs that have actively criticised the Government, or denied such CSOs the right to participate in public debates held in parliament. It remains important that the state follows the recommendation provided in 2021 to adopt control mechanisms in order to identify and eliminate preferential treatment for particular government-affiliated CSOs.

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

Changes in registration and establishment processes, including the aforementioned increase in the registration cost, impacted both CSOs and business representatives equally.

Furthermore, because amendments to the Law on Entrepreneurship were originally created in relation to commercial entities, and were only transposed to CSOs in specific cases, business entities have experienced greater limitations and the mandatory imposition of rules. In terms of other regulatory elements, CSOs are not in a worse situation than commercial entities, with the exception that, once authorised, business entities have a longer time period (one year) than CSOs to claim a VAT refund (just three months). While CSOs are permitted to receive state grants, representatives of the business sector are not permitted to do so unless certain exceptions are prescribed by law (for example, if a grant for economic activities is issued under the project 'Enterprise Georgia' or in the field of technology and innovation).

Despite the fact that the number of procurements awarded to CSOs has not changed (increased) significantly, neither has the attitude of CSO representatives in relation to public

procurement.⁵⁹ The law grants the non-commercial sector the same opportunities for participation in public procurement awards as it does representatives of the corporate sector.

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

The main examples that indicate unequal treatment towards certain CSOs during the reporting period are the refusal to open bank accounts for organisations and individuals connected to Belarus. Recent practice shows that banks are imposing extra fees on such applicants for conducting intensive background checks and are then mostly rejecting their request to open bank accounts.⁶⁰ Banks are not providing a formal justification for their decisions, but are generally stating that their approach is motivated by the recent developments in Ukraine, meaning that Belarusian and Russian affiliates are considered as high-risk clients. In general, banks are requiring that a long list of original corporate documents be provided, as well as the personal information and data of their beneficiaries from organisations whose founders are foreign, in order to comply with internal Know Your Customer (KYC) and AML policies. This requires greater effort and is more time-consuming for foreign stakeholders than ones residing in Georgia. Therefore, practically speaking, it is always harder for foreign representations to open bank accounts in Georgia than for local CSOs. However, this seems to be justified by the fact that this is a common standard of diligence for the legitimate purposes of AML and CTF prevention.

CSO representatives continue to believe that public representatives prefer CSOs that support the political party in power. This viewpoint is supported by an increase in cases where government representatives have verbally attacked certain CSOs that have actively criticised the Government, or have even denied them the right to participate in public debates held in parliament. However, this has not resulted in the enforcement of different regulations for different CSOs. Overall, it can be concluded that the state treats all CSOs equally in terms of establishment, registration, and their activities and that related legislation does not support a discriminatory approach towards CSOs.

Specific recommendations under Area 2:

- The Government of Georgia should initiate amendments to taxation procedures and enable CSOs to enjoy the same VAT refund timelines as corporations;
- If applicable, the purchasing state authority should make sure that state procurement awarding criteria are suitable not just for business entities, but also for CSOs, to encourage CSO engagement in procurement operations;
- The National Bank of Georgia should adopt institutional regulations and control mechanisms in order to guarantee that cases of unequal treatment from commercial banks are justified by the existence of an overriding legal interest, excluding the possibility of discrimination; and

⁵⁹ As found via the Focus Group meetings, CSO representatives do not often participate in public procurement, since they view it as a non-effective mechanism which revolves around price and hence favours commercial entities more than non-commercial ones.

⁶⁰ The amounts can vary, but are generally around 500 GEL (approx. 160 EUR) for entities, which is non-refundable even in case of refusal.

- The state should adopt control mechanisms in order to identify and eliminate preferential treatment for particular government-affiliated CSOs.

3.3 Access to Funding

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

Legislation: **6.0 / 7**

Practice: **5.3 / 7**

CSOs continue to have access to funding from a diverse range of sources, be they local or global, state or non-state, including donations, grants, fundraising campaigns, additional commercial activities, and charitable income. However, there is room for further improvement in terms of the sustainable application of these funding sources in practice. The scores and recommendations that were accorded to this area in 2021 remain the same, including the acknowledgement and support of the diversification of financial sources for CSOs and unregistered unions by enhancing statutory guarantees.

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

CSOs are free to seek, receive and use financial and material sources from international and national donors, access non-state funding mechanisms (such as individual and corporate donations (fundraising), membership fees, volunteering, and cross-sector cooperation) and state funding mechanisms (such as state grants, public procurement and programme financing from local municipalities), while following the provisions stipulated in the Civil Code of Georgia, the Georgian Law on Grants,⁶¹ the Georgian Law on Public Procurement,⁶² and the Georgian Tax Code.⁶³ The legislation related to CSO funding is generally favourable but still needs some adjustments so that state grants are issued in a transparent manner,⁶⁴ local municipalities are assigned as grantors, individual and corporate giving is encouraged by the state, and social entrepreneurship as a concept is acknowledged and supported. International donors continue to be CSOs' primary source of income. However, it is evident that the majority of donors prioritize programme and activity funding over institutional strengthening, making their contributions insufficient to support CSO sustainability in Georgia.⁶⁵

⁶¹ Law of Georgia on Grants, <https://www.lexadin.nl/wlg/legis/nofr/oeur/arch/geo/LAWONGRANTS.pdf>.

⁶² Law of Georgia on Public Procurement, <https://matsne.gov.ge/en/document/view/31252?publication=58>.

⁶³ Tax Code of Georgia, <https://matsne.gov.ge/en/document/view/1043717?publication=175>.

⁶⁴ See section 3.9 (State Support).

⁶⁵ Commentaries supporting the statement are taken from the Focus Group meeting held on 20 October 2022.

Once financial resources are received by CSOs, they must be used in accordance with the law and the provisions of the agreement and its objectives, whereas specific terms strongly depend on the circumstances of a case. Practice does not indicate the existence of overly-restrictive rules in that regard. Obligations related to the usage of funds are subject to the agreement between the grantor and the grantee and are mostly proportional to their aims, which include: securing project budget compliance, ensuring transparent, clear, and fair procurement procedures, and preventing the use of funds acquired from an entrepreneurial activity for the enrichment of its members.

CSOs' duties to observe financial accounting regulations are limited to disclosing tax-related information to state taxation authorities and informing donors about expenses and transactions linked to funds received from those donors. These procedures are not unnecessarily burdensome and are covered by regular state or private auditing procedures. The state does not oblige CSOs to make information about their income public. Neither focus group participants nor interviewees for this report raised any practical issues in relation to their financial accounting obligations. Aside from the fact that some CSOs may struggle to open bank accounts in the first instance, no evidence suggests that constraints from banks have hampered CSOs who already have bank accounts.

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

There are no special rules or procedures in place for CSOs to receive and use foreign and international funding or in-kind support, or for donors to provide funding to CSOs. CSOs can freely accept foreign funding and use foreign sources in practice. However, stigmatization of CSOs is a continuous process that either worsens or loses its intensity depending on the prevailing political mood, and the reasoning behind related attacks on CSOs might be associated with the origin of their grants and donor organisations. Foreign and international grants, donations, and membership fees are taxed in the same way as domestic grants, donations, and membership fees, with the condition that donor organisations whose grants are free from VAT can provide information to the revenue services so that the grant agreement is registered in the system as VAT-free.

Specific recommendation under Area 3:

- The state should recognise and support diversification of funding sources for CSOs and unregistered unions, including by promoting philanthropy, acknowledging the concept of social entrepreneurship and establishing necessary legislative guarantees.

3.4 Freedom of Peaceful Assembly

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

Legislation: **5.2 / 7**

Practice: **3.9 / 7**

The right for people to participate in and hold peaceful gatherings in Georgia is protected by the law. However, in practice, in 2022 CSOs and individuals have continued to run into issues that are similar to those that have been identified in previous reporting years. The law and how it is applied has not changed significantly in this area, which means that the scores have remained the same as for 2021. This means that the legal framework related to freedom of assembly still contains the same flaws as it did in previous years. For example, spontaneous assembly is still ineffectively regulated, and some vague provisions pertaining to administrative offences create room for arbitrary infringement of the right to peaceful assembly. The gaps in practice identified in the previous reporting period are still relevant. The state still fails to effectively investigate and prevent the episodes of threats and physical attacks from radical right-wing groups on activists. This especially affects the exercise of freedom of assembly by LGBTQ+ activists, largely stemming from state inaction on previous attacks on Pride events.

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

Everyone's right to peaceful assembly is guaranteed by the Constitution of Georgia.⁶⁶ Coupled with this, the Law on Assemblies and Demonstrations prescribes the core principles and obligations pertaining to organising demonstrations.⁶⁷ Georgian legislation guarantees the right to gather publicly without prior permission, both indoors and outdoors.⁶⁸ The right to peaceful assembly is not absolute, however, and it can be restricted based on legitimate interests. For instance, Georgian law restricts demonstrating within a twenty-metre radius of certain government and military buildings, as well as railway stations, airports, and ports.⁶⁹ Georgia still fails to properly regulate spontaneous assemblies. The state has not implemented the Venice Commission recommendations on modifying the rule that requires that five days' prior notice be given to the authorities if an assembly is held on a highway or hinders the

⁶⁶ Constitution of Georgia, Art. 21.

⁶⁷ Law of Georgia on Assemblies and Demonstrations, <https://matsne.gov.ge/en/document/view/31678?publication=10>.

⁶⁸ Ibid., Art. 3(a).

⁶⁹ Ibid., Art. 9.

movement of transport.⁷⁰ However, in practice, there have been no major impediments to people's right to carry out spontaneous protests due to these legislative stipulations.

Generally, individuals and CSOs are not prosecuted or sanctioned for organising or taking part in peaceful assemblies. However, there has been an increasing trend of verbal attacks from government officials directed at demonstrations that are critical of the Government.

Social media platforms, especially Facebook, remain an integral part of organising demonstrations on various causes. However, the same platforms are often used to marginalize, harass and spread fake news about causes, activists, and CSOs organising these demonstrations, generally via the use of trolls and fake accounts.⁷¹ These online attacks often trail and mirror statements from politicians who employ anti-CSO/activist narratives, accusing them of partisan interests aligned with the opposition.⁷²

Russia's invasion of Ukraine has sparked a series of solidarity protests around Georgia.⁷³ Thousands of people have also taken to the streets of Tbilisi and other cities in mass pro-EU demonstrations, asserting an aspiration towards European integration.⁷⁴

In June 2022, activists and CSOs organised a series of large-scale rallies with the slogan 'Home, to Europe', which criticised the Georgian Government for insufficient action towards securing Georgia's EU candidacy status and called for a technical interim government to be in charge of implementing the twelve priorities set out by the EU Commission for Georgia to obtain candidate country status.⁷⁵ These protests and their organisers became the targets of reproof from high-level officials⁷⁶ and pro-government activists.

⁷⁰ Final Opinion on the Amendments to the Law On Assembly and Manifestations of Georgia, Venice Commission, Opinion no. 547/2009, 'the 5-day time limit within which a notification has to be submitted, provided by Art. 8, should be made more flexible: a modification of the provision regarding the deadline within which a notification may be submitted should be included in the sense that a notification shall be submitted 'as a rule' 'five working days before the assembly'. Also, notifications cannot be required for spontaneous assemblies,'

[https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL\(2009\)153-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL(2009)153-e).

⁷¹ MDF, Myth Detector, <https://mythdetector.ge/en/topic/ngo-en-en/>.

⁷² Factcheck, 22 June 2022, <https://factcheck.ge/ka/story/40840->

<https://factcheck.ge/ka/story/40840-%E1%83%A1%E1%83%9D%E1%83%AA%E1%83%98%E1%83%90%E1%83%9A%E1%83%A3%E1%83%A0-%E1%83%A5%E1%83%A1%E1%83%94%E1%83%9A%E1%83%A8%E1%83%98-ndi-%E1%83%98%E1%83%A1-%E1%83%99%E1%83%95%E1%83%9A%E1%83%94%E1%83%95%E1%83%98%E1%83%A1-%E1%83%A8%E1%83%94%E1%83%A1%E1%83%90%E1%83%AE%E1%83%94%E1%83%91-%E1%83%93%E1%83%94%E1%83%96%E1%83%98%E1%83%9C%E1%83%A4%E1%83%9D%E1%83%A0%E1%83%9B%E1%83%90%E1%83%AA%E1%83%98%E1%83%90-%E1%83%95%E1%83%A0%E1%83%AA%E1%83%94%E1%83%9A%E1%83%93%E1%83%94%E1%83%91%E1%83%90>

⁷³ OC Media, 24 February 2022, 'Georgians rally in support of Ukraine as MPs scramble for response',

<https://globalvoices.org/2022/02/25/georgians-rally-in-support-of-ukraine-as-mps-scramble-for-response/>.

⁷⁴ Agenda.ge, 3 July 2022, 'Rally in support of Georgia's European integration underway in Tbilisi',

<https://www.agenda.ge/en/news/2022/2543>.

⁷⁵ OC Media, 24 June 2022, 'Georgian protesters demand government resignation following EU candidacy denial',

<https://oc-media.org/georgian-protesters-demand-Government-resignation-following-eu-candidacy-denial/>.

⁷⁶ For instance, one member of parliament during the protests at the ruling party headquarters in anticipation of the demonstrators called them 'drooling slaves', OC Media, 4 July 2022, 'Home to Europe deadline passes as protests appear to stall', <https://oc-media.org/home-to-europe-fails-to-oust-the-Government-protests-appear-to-stall/>.

The President of Georgia implied that the protests stemmed from political ambitions and that this assembly should have been postponed because, in her opinion, it was ‘not the time to divide society.’⁷⁷ The Prime Minister also accused the organisers of partisan biases, stating that the ‘rallies were launched to overthrow the Government and make revolution.’⁷⁸

On top of the verbal attacks, the Ombudsman’s Office has reported a number of incidents in which aggressive groups (in some cases including local civil servants) have hindered activists, students, and politicians from organising meetings and campaigning to spread information about European integration and from holding a peaceful assembly planned for 3 July 2022, including by using physical force.⁷⁹

The aggressive groups and far-right activists have also made threats against and attacked activists who demonstrated against newly-opened offices of the ultra-right wing and pro-Russian group Alt Info in various Georgian towns.⁸⁰ Marneuli-based human rights activist Samira Bayramova, who painted the Ukrainian flag on the window of the Alt Info office in Marneuli, has received threats of violence against her and her family. The Prosecutor’s Office granted her victim status and placed her in a special protection programme on 22 March 2022. However, the alleged perpetrators of these violent threats have still not been charged.⁸¹ Other activists, who also demonstrated against Alt Info, have reported violent threats and retaliation by aggressive groups, in some cases resulting in administrative detentions or criminal liability for the aggressors.⁸²

Despite some positive exceptions, the state still largely fails to apprehend obstructions and threats from ultra-right groups,⁸³ vacating its obligation to ensure that LGBTQ+ individuals and activists can equally and fully enjoy the right to freedom of assembly.

In addition to targeting pro-European campaigners, the extremist group Alt Info also threatened 2022 Pride Week. The violence that these radical groups perpetrated in July 2021, brutally attacking journalists and activists during Pride Week, forced LGBTQ+ activists to opt for closed events during 2022 Pride Week. The Pride Week organisers blamed the lack of a pride march on the Government’s repeated refusal to protect LGBTQ-related public demonstrations from violent attacks, stating that the uncompassionate system refuses to protect the rights of its citizens and excludes LGBTQ+ people from public spaces and public

⁷⁷ Civil Georgia, 15 June 2022, ‘President Slams Gov’t Over ‘Spoiled Work’ in Brussels’, <https://civil.ge/archives/496180>.

⁷⁸ Ibid.

⁷⁹ Public Defender (Ombudsman) of Georgia, 30 June 2022, ‘Public Defender Responds to Attacks on Participants in Campaign ‘Going Home to Europe’’, <https://www.ombudsman.ge/eng/akhali-ambebi/sakartvelos-sakhalkho-damtsveli-modzraoba-shin-evropisken-mier-tsarmoebul-kampaniashi-monatsileebis-mimart-gankhortsiebul-tavdashkmebs-ekhmianeba>.

⁸⁰ OC Media, 23 March 2022, ‘Far-right activists attack protesters in Adjara’, <https://oc-media.org/far-right-activists-attack-protesters-in-adjara/>.

⁸¹ OC Media, ‘The woman challenging Georgia’s far-right’, 19 May 2022 <https://oc-media.org/features/the-woman-challenging-georgias-far-right/>.

⁸² OC Media, ‘Far-right activists attack protesters in Adjara’, 23 March 2022 <https://oc-media.org/far-right-activists-attack-protesters-in-adjara/>.

⁸³ Social Justice Center, Signs of Impunity and Government Loyalty to Alt-Info and Conservative Movement Leaders are Obvious, <https://socialjustice.org.ge/en/products/ashkaraa-dausjelobisa-da-khelisuflebis-loialobis-nishnebi-alt-infosa-da-konservatiuli-modzraobis-liderebis-mimart>.

life.⁸⁴ Tbilisi Pride also criticised Georgian Prime Minister Irakli Gharibashvili, who, speaking before Parliament on 22 June 2022, six days before Pride Week, accused Tbilisi Pride and liberal group The Shame Movement of causing the riots during Pride in Tbilisi in July 2021.⁸⁵ This was quickly followed by a statement from the authorities that they would ensure the safety of Pride Week events and stating that they had launched an investigation into calls for violence and threats. Despite the Interior Ministry's calls on groups opposing Tbilisi Pride Week to abide by the law, in anticipation of the Pride Week events, right-wing groups tried to blockade the entrances to the events, resulting in the arrest for 'disorderly conduct' of several dozen participants in the right-wing rally.⁸⁶ The 2022 Pride Week events were heavily guarded by Georgian police, in part due to them being attended by ambassadors from different countries, which in return ensured the safety of the LGBTQ+ community and activists participating in the events.⁸⁷

The Code of Administrative Offences, which is the only remaining law in Georgia that was adopted during the time of the Soviet Union, is still used as the primary tool to detain protesters. The provisions of the Code often lack clarity, which creates room for arbitrary decisions.⁸⁸ For instance, the notion of 'petty hooliganism' is often applied to restrict the speech of protesters that might be unacceptable to a certain part of Georgian society, even if their messages cannot be considered to be offensive. For instance, a Georgian court citing the petty hooliganism article fined activists for the contents of posters used in a peaceful protest held near the Embassy of Ukraine in Tbilisi with the inscriptions '*Georgian Government f*ck off*' and '*F*ck you Georgian Dream*'.⁸⁹ Another commonly-cited provision for detaining activists during protests is Article 173 of the Code of Administrative Offences (disobedience to a legal request of the police), which also is often subject to broad interpretation. On 28 February 2022, the Batumi City Court fined an activist 2,000 GEL (approx. 713 EUR) on the basis of disobedience to a legal request of the police, claiming that the activist disobeyed a legal requirement by asking the police officers why they were detaining another protestor. Subsequently, a constitutional claim has been initiated, challenging the vagueness of Article 173 in relation to freedom of expression, and claiming that this type of broad interpretation threatens enjoyment of freedom of expression.⁹⁰

Standard II. The state facilitates and protects peaceful assemblies.

As a general rule, no advance notice is necessary to organise an assembly, except when it is held on a highway or hinders transport movement. The notice should be submitted to the

⁸⁴ OC Media, 'Georgian extremist group Alt Info threatens Pride week', 31 May 2022 <https://oc-media.org/georgian-extremist-group-alt-info-threatens-pride-week/>.

⁸⁵ OC Media, 'Pride Week kicks off in Tbilisi with strong support from ambassadors', 29 June 2022, <https://oc-media.org/pride-week-kicks-off-in-tbilisi-with-strong-support-from-ambassadors/>.

⁸⁶ Agenda.ge, 'Police arrest 26 at rally against Tbilisi Pride Week', <https://agenda.ge/en/news/2022/2535>.

⁸⁷ OC Media, 'Pride Week kicks off in Tbilisi with strong support from ambassadors', 29 June 2022, <https://oc-media.org/pride-week-kicks-off-in-tbilisi-with-strong-support-from-ambassadors/>.

⁸⁸ Netgazeti.ge, Rationale behind amending code of administrative offences, <https://netgazeti.ge/law/636129/>, (in Georgian).

⁸⁹ 'Карабль Грузинской Мечты Иди на Хуй'.

⁹⁰ Social Justice Center, addressing constitutional court of Georgia on the case of Giorgi Arobelidze, <https://socialjustice.org.ge/ka/products/sotsialuri-samartlianobis-tsentri-giorgi-arobelidzis-sakmeze-sakonstitutsio-sasamartlos-mimartavs>, (in Georgian).

local government five days in advance and is free of charge.⁹¹ Without first receiving a notice, the local self-government body is not permitted to grant or deny the right to conduct an assembly. The law compels the responsible persons to consider the feasibility of changing the location and time of the demonstration in coordination with the organisers and to issue their recommendation within three days of receiving the notice.⁹² However, this recommendation is not binding and there have been no reports of any assemblies being banned or otherwise hindered through this process.

The notification system in practice is not used to hinder or restrict the right to peaceful assembly and people are still allowed to organise spontaneous demonstrations without prior notification, including by blocking highways if there is a genuine necessity to do so due to the size of the demonstration.

Freedom to peaceful assembly through electronic means of communication is not expressly protected by law, albeit that the Constitution guarantees access to the internet as a fundamental right of Georgian citizens.⁹³ Despite the lack of clear legislative guarantees regarding the enjoyment of freedom of peaceful assembly through electronic means, Georgia has not experienced internet shutdowns or any restrictions on social media. Therefore, in practice, citizens enjoy the freedom to organise assemblies online.

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

Assembly organisers have a general obligation to ensure public order and to take all reasonable measures to eliminate violations of the Law on Assemblies and Demonstrations, including by calling on the participants of the demonstrations to cease violations. However, organisers are not held liable for the actions of others during an assembly.⁹⁴ The Code of Administrative Offences sets a fine of 500 GEL (approx. 178 EUR) for violating the rules of organising and holding an assembly or demonstration.⁹⁵ However, this article is only rarely used in practice.

The Constitution allows the state to intervene in the exercise of the right to assemble and demonstrate if it has become illegal. The Law on Assemblies and Demonstrations specifies the cases of mass violations that justify immediately stopping the assembly or demonstration at the request of the authorised representative,⁹⁶ but these specifications do not provide details of what is meant by ‘mass violations’, which in previous years has resulted in arbitrary obstruction of peaceful assemblies while, on other occasions, when deemed necessary, ignoring violent protestors.

⁹¹ Arts 2 and 5, the Law of Georgia on Assemblies and Manifestations, <https://matsne.gov.ge/en/document/view/31678?publication=10>.

⁹² Ibid.

⁹³ Art. 17, the Constitution of Georgia.

⁹⁴ Law of Georgia on Assemblies and Manifestations, Art. 13(2), <https://matsne.gov.ge/en/document/view/31678?publication=10>.

⁹⁵ Art. 174¹, Administrative Offences Code of Georgia, <https://matsne.gov.ge/en/document/view/28216?publication=381>.

⁹⁶ Art. 11 and 13, the Law of Georgia on Assemblies and Manifestations, <https://matsne.gov.ge/en/document/view/31678?publication=10>.

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

The Law on Assemblies and Demonstrations, as well as the Law on Police, establishes the framework for the use of force during peaceful assemblies. Interference with the exercise of the right to assemblies and demonstrations must serve one of the Constitution's legitimate goals and be a necessary measure for a democratic society. The police are required to follow the proportionality principle, which means that a police measure must be useful, necessary, and proportionate.⁹⁷ Legislation does not clearly delineate the competencies of local government and police vis-à-vis pre-warning/negotiation procedures with protest organisers, nor does it establish a proper coordination mechanism. Coupled with this, there is also a lack of clear regulations on the use of special measures by law enforcement.⁹⁸

The authorities still largely fail to coordinate peaceful counter-protests, especially ensuring the protection and safety of the press and of LGBTQ+ people. Since 2021, the Government still has not undertaken any specific steps to ensure criminal liability for the organisers of the homophobic demonstrations at the 2021 5th July Pride event, during which dozens of journalists and activists were abused and injured as a result of the police's delayed and ineffective response⁹⁹ and, following which, the state provided ill-founded excuses.¹⁰⁰ Overall, the Government has arrested 31 persons for various crimes committed against 52 victims, including 42 journalists and operators, as well as one organisation.¹⁰¹ However, no legal proceedings have been initiated against the organisers of these aggressive protests, despite a number of CSOs and the Ombudsman's Office indicating the existence of overwhelming evidence sufficient to charge some organisers of the protest with organising group violence, as well as for publicly calling for violence.¹⁰² Consequently, the same right wing groups were able to employ similar threatening strategies in 2022 against pro-European activists and during Pride Week.¹⁰³

Objective and due investigation of crimes committed by law enforcement officials is also problematic. As a rule, where an investigation commences into alleged beatings or other violence by law enforcement, it does not finish with specific legal results. Many gross violations from previous years alleging the excessive and unwarranted use of force by law

⁹⁷ Art. 12 of the Law of Georgia on Police, <https://matsne.gov.ge/en/document/view/2047533?publication=28>.

⁹⁸ Special Report of the Public Defender of Georgia 'Freedom of Peaceful Assembly (Sphere of Rights and the Standard of Assembly Management)', 2020, 44, available (in Georgian) at: <https://ombudsman.ge/res/docs/2020061620213679437.pdf>.

⁹⁹ Netgazeti, 'Hunting for cameramen and journalists in front of the police - 14 stories', 6 July 2021, <https://netgazeti.ge/news/552394/>.

¹⁰⁰ Radio Liberty, 'The Ministry of Internal Affairs states that they have taken responsibility for the security of the Pride event only on July 1 and 3', <https://www.radiotavisupleba.ge/a/31345510.htm>.

¹⁰¹ Social Justice Center, 5, p. 12, shorturl.at/dfnPX.

¹⁰² 'Public Defender Demands Criminal Prosecution of Two Persons for Organizing Group Violence and Calling for Violence on July 5', 6 September 2021,

¹⁰³ Please see Standard I for more information.

enforcement against demonstrators have still not been investigated, and the perpetrators have not been held accountable.¹⁰⁴

Specific recommendations under Area 4:

- The state must unwaveringly safeguard the right to peaceful assembly, calmly handle public protests, negotiate with the public, and limit police response to rallies;
- All cases involving the abuse of power by law enforcement officers during demonstrations must be investigated promptly, impartially, and objectively by the Ministry of Internal Affairs and the Prosecutor's Office;
- The Parliament of Georgia shall amend national legislation in line with the recommendations of the Venice Commission and regulate issues related to spontaneous assembly. In particular, an exception should be made to the general rule of early warning to the local self-government body and participants in peaceful assemblies and demonstrations should be allowed to block the highway when prior notice to the relevant authorities is not possible;
- Law enforcement officers should carefully use administrative offences against peaceful demonstrators, avoiding arbitrary infringement of their freedoms of assembly and expression; and
- The Parliament of Georgia should fundamentally revise the Code of Administrative Offences to eliminate unjustified intervention into the right to peaceful assembly and expression (e.g., via detaining individuals to prevent them from participating and holding them for administrative imprisonment without proper safeguards).

3.5 Right to Participation in Decision-Making

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

Legislation: **5.3 /7**

Practice: **4.3 /7**

The right to participation in decision-making is making its way into the regulatory framework as a mandatory requirement of good governance. However, legislative pronouncements are not being followed and applied properly in practice, leaving participation and public engagement less effective. The overall score for the area has not changed from 2021, but the score for legislation has gone up from 5.2 in 2021 to 5.3. This is because there have been some improvements to the institutional framework that ensures that the public is consulted when public policy documents are made, which is in part what the 2021 CSO Meter report suggested. Other recommendations that were put forward in

¹⁰⁴ 2021 Georgia CSO Meter Country Report, https://csometer.info/sites/default/files/2022-08/2021%20Georgia%20CSO%20Meter%20Country%20Report%20ENG_1.pdf.

previous reports, whether that be the elimination of a hostile environment for engagement, the allowance of earlier stage participation, or a better standard of public information sharing, are all still considered relevant. Participation in decision-making is notably low when it comes to difficult public issues such as reform of the courts and the electoral system. Government officials have also created a hostile environment for watchdog groups critical of government policies, preventing them from participating or making them unwilling to participate in a process in which their involvement would be minimal.

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

Georgian law provides key guarantees for CSO participation in the decision-making process both in the central government and at the municipal level. These include mechanisms for petitioning (both in person and online), initiating and commenting on proposed laws, access to parliamentary sessions, and the ability to speak during committee meetings, among others. These standards were buttressed by the EU institutions that prescribed the involvement of civil society in decision-making processes at all levels as one of the key pre-requisites for Georgia obtaining EU candidate country status.¹⁰⁵

Public consultations are set in legislation as a mandatory stage for adopting public policy documents.¹⁰⁶ To this end, in April 2022, the Government approved the Instructions on Public Consultations,¹⁰⁷ which comprehensively overview procedures and methodologies for conducting effective public consultations on policy documents. The document largely echoes the CSO Meter 2021 recommendations¹⁰⁸ and includes step-by-step guidance on employing various participatory tools, inter alia working meetings, focus groups, online surveys, the use of artificial intelligence (AI), and virtual reality for holding public consultations, as well as highlighting the importance of a state feedback mechanism for providing consultations. Public consultations are also an obligatory stage for an impact assessment process conducted for certain draft laws that have to go through the regulatory impact assessment procedures.¹⁰⁹

The legislation also establishes crucial instruments for CSO participation in parliamentary procedures, including the right to attend and participate in committee meetings and thematic inquiry groups, comment on, and raise questions about draft laws both in person and online.¹¹⁰

Georgia's EU candidacy application and the subsequent twelve priority goals set by the EU Commission for the Georgian Government created a necessity for urgent and effective public consultation avenues for achieving these priorities. In the summer of 2022, the Parliamentary

¹⁰⁵ European Commission, Opinion on the EU membership application by Georgia, https://ec.europa.eu/commission/presscorner/detail/en/qanda_22_3800.

¹⁰⁶ Government of Georgia, Ordinance No. 629, 20 December 2019, Art. 9 <https://matsne.gov.ge/ka/document/view/4747283?publication=0>.

¹⁰⁷ Government of Georgia, Ordinance No. 169, 1 April 2022, <https://matsne.gov.ge/ka/document/view/5428032?publication=0>.

¹⁰⁸ See: specific recommendations under Area 5.

¹⁰⁹ Government of Georgia, Ordinance No. 35, 17 January 2020, <https://www.matsne.gov.ge/ka/document/view/4776100?impose=translateEn&publication=0>.

¹¹⁰ Rules of Procedure of the Parliament of Georgia, <https://matsne.gov.ge/en/document/view/4401423?publication=27>.

Committees established various working groups on, inter alia, deoligarchization, elections, and judicial reforms in response to fulfilling EU recommendations that set a roadmap for Georgia's candidate country status. Instead of ensuring that this high-priority process was optimally transparent and inclusive, the Parliament restricted broad participation and prescribed only two spots for CSOs in each working group.¹¹¹ Furthermore, in August 2022, the parliamentary majority blocked the participation of one of the key watchdog organisations, the International Society for Fair Elections and Democracy (ISFED), in the parliamentary working group on electoral issues, alleging their lack of political neutrality.¹¹² In solidarity with ISFED, other CSOs also left these working groups, refusing to participate in these restrictive formats.¹¹³ This process was also followed by statements from the U.S. Embassy¹¹⁴ and the EU delegation in Georgia¹¹⁵, reminding the authorities of their international commitments and the importance of CSO participation in these crucial matters.

Conversely, the process for nominating a new Public Defender has been highly open and inclusive, despite being the subject of objective criticism at its initial stage.¹¹⁶ The Parliament has adopted ad hoc procedures for nominating the Public Defender only for this term. These provisional procedures prescribed mandatory consultations with CSOs before nominating the Public Defender candidates, including establishing the Assessment Working Group consisting of CSOs responsible for evaluating the candidates against pre-determined criteria.¹¹⁷ This process was supplemented by the CSO initiative to select Public Defender nominees via broad participation and consultation within the sector.¹¹⁸ As a result, CSOs nominated three Public Defender candidates.¹¹⁹

Georgian law creates a more varied framework for participation in decision-making at the municipal level. Key protections for civic participation at the local level are outlined in the Local Self-Government Code and include a general assembly of a settlement; a petition; the council of civil advisors; participation in the sessions of the municipality assembly (*sakrebulo*) and the sessions of its commission, and hearing reports on the work done by the mayor of the municipality and by members of the municipality councils. These participatory tools are open-ended, which means that municipalities are also instituting innovative participatory

¹¹¹ ISFED, The Ruling Party Blocked ISFED's Participation In The Working Group On Electoral Issues, 18 August 2022, <https://www.isfed.ge/eng/gantskhadebebi/mmartvelma-partiam-dabloka-samartliani-archevnebis-monatsileoba-saarchevno-sakitkhebze-shegmnil-samushao-djufshi>.

¹¹² About excluding ISFED, 18 August 2022, <https://publika.ge/ocnebam-samushao-jgufis-shekhvedraze-isfed-ar-miiwvia-saiam-protestis-nishnad-skhdoma-datova/>.

¹¹³ Ibid.

¹¹⁴ About excluding ISFED, <https://publika.ge/saelcho-isfed-is-ardashveba-parlamentis-saarchevno-reformis-procesis-gulwrfelobastan-dakavshirebit-kitkhvebs-badebs/>.

¹¹⁵ EU Delegation in Georgia, Facebook post, 19 August 2022, <https://www.facebook.com/europeanunioningeorgia/posts/pfbid02kCXcHGfDqgfs3iNSGxBYYoTnBkm3jXMDRd1a2LianPQhutgFe9362xFZcifoWh2l>.

¹¹⁶ Civil.ge, Public Defender's Office Criticizes Draft Bill on Nominating Ombudsman, <https://civil.ge/archives/507713>.

¹¹⁷ Rules of Procedure of the Parliament of Georgia, Art. 228³ <https://matsne.gov.ge/en/document/view/4401423?publication=27>.

¹¹⁸ ISFED, NGOs unite for the election of Ombudsman, 17 August 2022, <https://www.isfed.ge/geo/gantskhadebebi/NGO-ebi-akhali-sakhalkho-damtsvelis-sherchevis-protsebis-khelshesatskobad-ertiandebian>.

¹¹⁹ Civil.Ge, Civil Society Organisations Present Candidates for New Public Defender, <https://civil.ge/archives/509574>.

tools such as participatory budgeting, charrettes, and so on, often with active collaborations with local CSOs.

Despite some encouraging initiatives targeted at advancing and cementing civic participation measures, the current system still falls short of ensuring meaningful public engagement, notably at the earlier stages of elaborating draft laws and normative acts. This could be largely attributed to the lack of clearly-prescribed mechanisms to redress and remedy any noncompliance with the rules governing civil participation. These rules are therefore often only declaratory in practice.¹²⁰

While Georgian legislation establishes a general framework for civic participation both at the central and local levels, the lack of clear and uniform safeguards for public consultations often leaves room for arbitrary decisions, restricting CSOs' equal and timely access to public consultations.

Standard II. There is regular, open and effective participation of CSOs in developing, implementing and monitoring public policies.¹²⁰

The possibility to create working groups, consultative organisations, thematic review groups, and other venues for participation on nearly all levels of decision-making, both at the formulation and implementation phases, is clearly set out in Georgian legislation. For instance, Georgian legislation allows the prime minister, as well as ministers, to establish consultative bodies (e.g., commissions, advisory councils) on any issue within their mandate.¹²¹

However, the legislation gives broad discretion to authorities on decisions pertaining to integral parts of public consultations, such as member selection and operational procedures of consultative bodies, transparency, and timelines, which in return creates room for arbitrary decisions.

While information on draft laws is publicly available on the web page of the Parliament of Georgia, CSOs are not always allowed to provide input to the decision-making process at the earliest stages and sometimes are not given sufficient time. This is especially problematic for those draft laws that are adopted through accelerated procedures, which often include sensitive matters subject to increased public interest.

For instance, in the summer of 2022, the Parliament adopted amendments to the Spatial Planning, Architecture, and Construction Code of Georgia in an accelerated manner without giving CSOs sufficient time or means to provide input on these provisions.¹²² These amendments allowed temporary exceptional construction rules in the city of Batumi,

¹²⁰ According to the General Administrative Code of Georgia, non-compliance with formal proceedings (including lack of public participation) can be a legal basis for annulling individual legal acts or a normative act. However, in practice, common courts or supervisory bodies hardly ever grant applications based solely on those grounds.

¹²¹ The Law of Georgia on the Structure, Authority and Rules of Operation of the Government of Georgia Art. 20 and Art. 29, <https://matsne.gov.ge/en/document/view/2062?publication=41>.

¹²² Green Alternative on accidental crush of construction in Batumi, <https://greenalt.org/batumis-avariuli-sakhlebis-chanacvlebis-programa-daushvebel-sakanonmdeblo-cvliilebbs-iwvevs/>.

exempting construction companies from regulations that ensure the safety of buildings and structures, a safe environment for health, and accessibility for persons with disabilities.¹²³ Another problem is created by ambiguities/lack of information in the agendas and announcements of public hearings. For instance, some CSOs alleged that the High Council of Justice might be intentionally publishing opaque information and agendas about upcoming hearings to prevent effective public scrutiny of crucial decisions.¹²⁴ CSO focus group participants also observed that the requirement for entry permits in public buildings, including for access to the Parliament of Georgia, often hinder smaller and regional CSOs from accessing the physical spaces of engagement, since most entry permits are issued through personal connections, rather than via a centralised system ensuring equal access to public hearings.¹²⁵

Compared to central government, municipal authorities are more amenable to engaging CSOs in implementation, monitoring and evaluation of municipal policies and programmes, especially on social issues, sometimes even fully delegating the implementation process to CSOs. In some municipalities, CSOs are even coordinating participatory tools supporting municipal authorities in setting up proper consultancy measures.¹²⁶ However, some CSOs have observed that these initiatives were mostly not intrinsic to municipal authorities, and they were instead incentivised by the donor organisations within specific projects. Therefore, after specific donor-funded projects end, there is a lack of institutional continuity and political support for civic engagement schemes at the municipal level. Engagement levels in the decision-making process hugely vary among municipalities, and CSOs observe that this is often connected to the personalities in charge (mayors, heads of city assemblies, etc.), rather than the legislative frameworks.¹²⁷

In addition to lack of political will, CSOs' effective participation in the decision-making process at the local level is sometimes hindered by such practical issues as lack of physical space or furniture in government buildings. Batumi City Assembly has restricted interested citizens and CSO representatives from attending the City Assembly hearing several times citing a lack of physical space and chairs due to the increase in the number of assembly

¹²³ Public Defenders Office, Public Defender Appeals to Constitutional Court against Temporary Exceptional Construction Rules in Batumi, <https://www.ombudsman.ge/eng/akhali-ambebi/sakhalkho-damtsvelma-batumshi-dagegmili-msheneblobis-gankhortsielebis-droebiti-sagamonakliso-tsesi-sakonstitutsio-sasamartloshi-gaasachivra>

¹²⁴ Democracy index on transparency for High Council of Justice of Georgia, 27 June 2022, https://democracyindex.ge/index.php?m=261&news_id=169&lng=geo.

¹²⁵ In previous years, there have been some cases where CSOs and activists alleged potentially discriminatory restrictions on entry permits, <https://transparency.ge/en/blog/access-citizens-building-parliament-georgia-unreasonably-restricted>.

¹²⁶ For instance, CSOs are increasingly cooperating with municipal authorities to support establishment/advancement of participatory mechanism such as youth councils: <https://edec.ge/en/a-memorandum-of-understanding-was-signed-to-strengthen-the-youth-council-2/>

Participatory budgeting: <http://www.idea.batumi.ge/>.

¹²⁷ For more detailed information regarding participation levels and accountability among local municipalities see: Local Government Index 2021, <http://www.lsgindex.org/>.

members.¹²⁸ Tbilisi City Assembly also has limited space allocated for citizens, often forcing them to stand throughout the assembly hearings.

Lack of engagement of ethnic minorities at all levels of decision-making, in part due to language barriers, is also concerning.¹²⁹ In November 2022, the National Environment Agency issued an environmental decision for open pit gold mining in the village of Mushevani, which is settled by ethnic Azerbaijani Georgian citizens. The information about public consultancy, as well as environmental impact assessment documents, was available only in Georgian (which the majority of the locals do not understand), effectively erasing any potential for meaningful consultation with the impacted community.¹³⁰

Despite the legislative safeguards and some positive initiatives for public consultations, the state feedback mechanism is almost non-existent, since most public agencies are neither obliged nor incentivised to provide their reasoning for rejecting CSOs' recommendations, which in turn decreases the efficiency of public consultations.

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

Georgian legislation establishes necessary guarantees to ensure access to public information free of charge and within a reasonable timeframe (immediately, or within no later than ten days).¹³¹

The General Administrative Code of Georgia also stipulates the oversight mechanism and creates the obligation on public institutions to submit an annual 'Freedom of Information Report' to the Parliament of Georgia, which should include information about the number of decisions to refuse to provide public information, the number of violations of the Code, the imposition of disciplinary sanctions on those responsible, and information on appeals against the decision to refuse, etc.¹³² There are also a number of online government platforms and normative acts that ensure the proactive publication of relevant information.¹³³

Notwithstanding these guarantees, the government authorities in practice still fail to ensure high standards of transparency and openness, especially on politically-sensitive and publicly-controversial matters. The Government of Georgia has still not recommenced publishing

¹²⁸ Batumelebi, on issues related to participation in Sakrebulo work process 7 June 2022, <https://batumelebi.netgazeti.ge/news/414808/>; Batumelebi, 29 September 2022, <https://batumelebi.netgazeti.ge/news/438965/>.

¹²⁹ UN Human Rights Committee, Concluding observations, CCPR/C/GEO/CO/5, 13 September 2022, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fGEO%2fCO%2f5&Lang=en.

¹³⁰ Social Justice Center, <https://socialjustice.org.ge/ka/products/mushevanshi-rmg-is-mier-okros-mopovebaze-nebartva-ganakhlebuli-gzsh-s-sajaro-gankhilvis-gareshe-da-sazogadoebis-mosazrebebis-ugulebelqofit-gaitsa>.

¹³¹ General Administrative Code of Georgia, Chapter III, <https://matsne.gov.ge/en/document/view/16270?publication=33>.

¹³² Ibid., Art. 49.

¹³³ All normative acts including laws, government resolutions, international agreements, and Constitutional Court decisions are regularly published on the legislative herald www.matsne.gov.ge. Information about all draft laws, subsequent documents, and hearing schedules are usually available on the webpage of the Parliament of Georgia (www.parliament.ge) and CSOs have a possibility to participate and comment on draft laws during the parliamentary committee hearings.

government ordinances on its webpage, which was stopped without any official explanation in September 2020.¹³⁴ The ordinances often contain information regarding strategically important decisions, including state property transfers and international deals, etc. Therefore, despite the increased public interest, CSOs now have to acquire ordinances through individual freedom of information requests, effectively limiting public scrutiny of government decisions.

Despite some efforts to digitalize and ensure online accessibility of information, CSOs still experience difficulty effectively acquiring information pertaining to controversial projects or sensitive issues.¹³⁵ The authorities often use a broad interpretation of commercial secrets as a pretext to restrict access to information on those procurements or public-private partnership deals over which CSOs have a heightened interest in carrying out a watchdog role. For instance, the state has refused to disclose the details of the energy purchase agreement concluded with the Russian company Inter RAO UES which imports electricity from Russia to Georgia, citing commercial secrets as a reason for refusal.¹³⁶ In a positive development, in a May 2022 decision on a court case initiated by the Georgian Young Lawyers' Association (GYLA) against the Public Broadcaster of Georgia, the Supreme Court of Georgia upheld the decisions of the lower courts, rejecting commercial secrets as a legitimate ground to refuse access to information about contracts concluded by the Public Broadcaster with private entities which usually fall outside of the online public procurement system. The decision highlights the importance of public accountability and transparency over those deals that usually are not concluded through transparent, digital procurement procedures.¹³⁷

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

Lobbying is clearly regulated by the Law On Lobbying Activities.¹³⁸ The Law also establishes registration procedures for lobbyists, and specifies consequent rights and obligations. Everyone has a right to register as a lobbyist, except when the person's occupation is incompatible with lobbying activities (e.g., persons who hold certain public positions, for instance members of parliament) or the person has been convicted of a crime against the state or official misconduct.¹³⁹

The regulation of lobbying does not restrict CSOs' ability to engage in public policy and advocacy activities.

After registration, lobbyists have certain benefits and reporting obligations. For instance, they can freely enter the administrative building for the legislative and executive branches, may

¹³⁴ Studio Monitor, 'See what the Government is hiding and why their decisions are hidden from the public, 29 October 2021, <https://www.facebook.com/monitorstudio/posts/4645850238810977>.

¹³⁵ Some examples include: information about hunting licenses issued in Racha-Lechkhumi Region, https://greenalt.org/disputes_complaints/court_hunting_licence/.

¹³⁶ IFact, on usage of Russian energy sources, <https://www.ifact.ge/electroenergia/>.

¹³⁷ GYLA, on Georgia's Constitutional Court's decision, 6 July 2022, <https://gyla.ge/ge/post/saqartvelos-uzenaesma-sasamartlom-sazogadoebrivi-mautsyebelis-sakasacio-sachivari-daushveblad-cno-da-mas-sajaro-informaciis-gacema-daavala#sthash.RgGgza7l.d1Gs6Yov.dpbs>.

¹³⁸ Law of Georgia on Lobbying, <https://matsne.gov.ge/ka/document/view/13552?publication=7>.

¹³⁹ Ibid.

participate in discussions on a draft law on both open and closed sessions (except for in certain cases, as defined by the law), have the right to speak at committee sessions, and meet in person with legislative and executive body representatives.¹⁴⁰ However, most of these privileges are available to CSOs and their representatives without the lobbyist status. Therefore, this system largely remains inactive. Advocacy is clearly distinguished from lobbying and CSOs have the freedom to meaningfully engage in legislative advocacy without registering as lobbyists.

Currently, there are thirty-five persons registered as lobbyists. In January-November 2022, only three persons applied to the Parliament of Georgia to register and were granted status as a lobbyist. CSO representatives are largely not registering as lobbyists, instead preferring traditional legislative advocacy. Information about the lobbyists and their activities is available online on the webpage of the Parliament of Georgia.¹⁴¹

Compared to the previous reporting period, the government authorities have noticeably increased verbal attacks on watchdog organisations that are critical of government policies, especially on issues related to Georgia's EU candidate country status.¹⁴² This has diminished the space for effective state-CSO dialogue and advocacy perspectives.

Specific recommendations under Area 5:

- To eliminate a hostile environment for engagement, the state institutions should respect the right of individuals to participate in the decision-making process and ensure their meaningful engagement in developing draft laws and policies, including on politically-sensitive topics, irrespective of whether they hold critical opinions towards government officials;
- The Government of Georgia should continue to design and adopt unified legislative standards on public consultations of draft laws and other normative acts at the national level, including by clearly setting participation as an obligatory stage in the elaboration of decrees, draft laws, strategic documents, and other instruments and establish a redress mechanism for their violation;
- The state should ensure that consultations with CSOs happen at the earliest stage of development of laws and policies and that they are provided with comprehensive feedback on their input;
- The state should eliminate legislative and practical hurdles restricting meaningful participation both at the central and local level (e.g., simplifying entry pass requirements, providing sufficient space and infrastructure for

¹⁴⁰ Ibid.

¹⁴¹ List of registered lobbyists and reports about their activities, webpage of Parliament of Georgia, <https://parliament.ge/supervision/bills-reports/other-reports>.

¹⁴² CSO Meter, Georgia: Increased attacks on watchdog organisations, 14 September 2022, <https://csometer.info/updates/georgia-increased-attacks-watchdog-organisations>.

participation, etc.) and support local governments in advancing electronic tools for participation and publishing information;

- The Government and other state agencies should affirm their obligations to guarantee access to public information and ensure that CSOs can receive comprehensive information in due time, especially on contentious topics with heightened public interest;
- The Government should ensure that minorities are fully engaged at all levels of decision-making; and
- The Government should publish draft laws and draft normative acts for public comment, before their introduction to Parliament/their adoption. To this end, the Government should establish an online platform that will ensure transparent and open policy-making procedures.

3.6 Freedom of Expression

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

Legislation: **5.6/7**

Practice: **4.1 /7**

Despite the fact that some legislative proposals enacted during the reporting period, such as amendments to Georgia's Broadcasting Law, are regarded as broad, ambiguous, and threatening to curtail freedom of expression, the overall perspective shows that legislation related to the right to free expression is still regarded as progressive and compliant with international norms, justifying the overall score in this area remaining unchanged from 2021. On the list of recommendations, problems such as interference with journalists' jobs and a lack of proper investigations into these cases, as well as the suggestion to keep the area free from the possible use of restrictive measures, are still worthy of consideration.

The scores for legislation and practice for this area also remain the same as in 2021.

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

Freedom of expression is guaranteed by Georgian legislation. Therefore, individuals generally enjoy this fundamental right, including in their online communications.¹⁴³ The state's approach to protection of freedom of expression is considered to be the most progressive in the Caucasus region.¹⁴⁴ Along with the relevant laws, the Constitutional Court of Georgia has significantly contributed to setting this high standard.¹⁴⁵ The Court repeatedly observed that a

¹⁴³ Freedom House Report 2021, <https://freedomhouse.org/country/georgia/freedom-world/2021>.

¹⁴⁴ Media Advocacy Coalition, 'Media Environment in Georgia', 2020, 23, <https://bit.ly/3m6QPIC>.

¹⁴⁵ The judgment of 30 September 2016 of the Constitutional Court of Georgia on the case N1/6/561,568 Georgian citizen Yuri Vazagashvili vs. the Parliament of Georgia.

‘free society consists of free individuals who think freely, hold independent and different opinions and participate in democratic processes, which entails exchange of opinions and debates.’¹⁴⁶

Article 17 of the Constitution of Georgia protects the right to freedom of opinion, information, mass media and the internet. The Law on Freedom of Speech and Expression states that other ‘generally accepted rights’ related to freedom of expression are also protected, even if they are not specifically mentioned in the law.¹⁴⁷ No one has the right to monopolies in mass media or the means of dissemination of information.¹⁴⁸ Censorship is prohibited.¹⁴⁹ Under the law, everyone, including CSOs, can enjoy freedom of expression both online and offline. However, marginalised communities such as LGBTQ+ people have a particularly hard time freely exercising their right to expression, since they are often subject to oppression, violence, and discrimination.¹⁵⁰ The state does not fulfil its positive obligation to protect these people’s constitutional rights. After the 2021 Tbilisi Pride events and the de facto refusal of the state to ensure protection of the event, in 2022 LGBTQ+ communities refused to organise any events out of fear of retaliation.¹⁵¹

Advocacy of hatred that constitutes incitement to discrimination, hostility, or violence is prohibited. ‘Public calls to violent actions’ aimed at ‘causing discord between religious, racial, ethnic, social, linguistic, or other groups’ are criminalised.¹⁵² Violations are punishable by fines and community service.¹⁵³ Repeated offences resulting in injury or death are punishable by up to five years in prison.¹⁵⁴

Some legal norms and legislative proposals are broad, ambiguous, not clearly formulated, and contain the risk of restricting freedom of expression. In this regard, the regulation on the Protection of Minors from Harmful Information to Children in the Law of Georgia on Broadcasting¹⁵⁵ and the Code of the Rights of the Child¹⁵⁶ are relevant examples. These regulations are problematic, as they go beyond the frames of wide discretion and give the Communication Commission the authority to decide, according to its subjective viewpoint,

¹⁴⁶ The judgment of 26 October 2007 of the Constitutional Court of Georgia on the case N2/2/389 Maia Natadze and others vs. the Parliament of Georgia and the President of Georgia, II, 13.

¹⁴⁷ Para. 3 of Art. 3, the Law of Georgian on Freedom of Speech and Expression.

¹⁴⁸ Para. 3 of the Art. 17, the Constitution of Georgia.

¹⁴⁹ Ibid.

¹⁵⁰ Submission of the Public Defender (Ombudsman) of Georgia to the Universal Periodic Review (UPR) 37th Session, January-February 2021, para. 29, <https://bit.ly/3c3RR9C>.

¹⁵¹ Civil.ge, LGBT Groups Pensive About IDAHO as Church Marks Family Purity Day, 18 May 2022, <https://bit.ly/3Ti9UfW>.

¹⁵² Art. 239¹, Criminal Code of Georgia.

¹⁵³ Ibid.

¹⁵⁴ Ibid.

¹⁵⁵ Arts 561 and 562, the Law of Georgia on Broadcasting.

¹⁵⁶ Art. 66, the Code of the Rights of the Child.

what content may be disseminated by the broadcaster.¹⁵⁷ Additionally, on 7 September 2022, the MPs representing the ruling party, Georgian Dream, registered the draft Law on Broadcasting in connection with the amendments to the Law of Georgia on Broadcasting,¹⁵⁸ which became known to the wider public on 13 September. As the basis for these changes, the authors of the bill cite bringing Georgian legislation into compliance with the EU Directive on Audio-Visual Media Services. The registered bill provides, among other things, for the immediate enforcement of the Communication Commission's legal acts, regardless of whether they have been challenged in court. Given the practice of sanctioning critical media outlets by the Communications Commission, the risk of harm caused by the immediate enforcement of politically-biased decisions against critical media might increase significantly.¹⁵⁹

In recent years, interference in the content of broadcasting and unjustified restriction of freedom of expression on the part of the Georgian National Communications Commission (GNCC) have been evident on several occasions. It is significant that the regulator has used controversial approaches towards critical media.

On 1 February 2021, the GNCC, without a legislative mandate, recognised the TV Company 'Mtavari Channel' as an administrative offender in the programme, because, in its opinion, the story aired contained 'obscene' content.¹⁶⁰ This decision by the GNCC was based on an incorrect interpretation of the law and limited freedom of expression.¹⁶¹

In addition, it is significant that, as in previous years, the GNCC re-assigned responsibility to the broadcaster during the non-election period.¹⁶² The regulator fined the broadcaster for airing political advertisements based on the Advertising Law, which does not apply to advertisements with political content. According to the Public Defender's assessment, Georgian legislation does not contain rules regulating non-election advertising and, therefore, does not directly prohibit the placement of political advertising during the non-election period.¹⁶³

¹⁵⁷ GDI, 'Legislative norms in force for broadcasters today are censorship and must be declared unconstitutional', 1 September 2020, <https://bit.ly/3a0o4xE>.

¹⁵⁸ Georgian Law on Broadcasting, <https://bit.ly/3A07bAg>.

¹⁵⁹ The statement of the Media Advocacy Coalition regarding the Amendments to the Law of Georgia on Broadcasting. Media advocacy coalition official website, 2022, <https://bit.ly/3gboirx>.

¹⁶⁰ See: 'With The Help Of Gyla, Mtavari Arkhi Is Appealing To The Constitutional Court Against The Authority Of The Communications Commission To Sanction 'Obscene' Programs', GYLA, 29 March 2021, <https://bit.ly/3AGMyty> updated: 31 August 2022.

¹⁶¹ See: Report of the Public Defender of Georgia 'On the State of Protection of Human Rights and Freedoms in Georgia', 2021, 177, <https://bit.ly/3PPsf1c>. updated: 31 August 2022.

¹⁶² Regarding the imposition of administrative responsibility for 'Mtavari Channel' LLC, the website of the National Communications Commission, 25 December 2021, <https://bit.ly/3KGnUeW>. updated: 31 August 2022.

¹⁶³ See: Report of the Public Defender of Georgia 'On the State of Protection of Human Rights and Freedoms in Georgia', 2021, 177, <https://bit.ly/3PPsf1c>. updated: 31 August 2022.

Similarly, on 23 August 2022, the GNCC fined several media broadcasters for airing ‘Home, to Europe’ advertisements, which were generally critical towards the state’s perceived failures regarding Georgia’s European integration. This decision was devoid of legal basis and contradicted already-existing court practice regarding political advertisements.¹⁶⁴

Georgia’s media environment is vibrant and pluralistic, but polarised, mirroring the political situation. Polarisation increases during significant social-political events, especially during elections.¹⁶⁵ Practice shows that setbacks are derived from political influence on the leading media outlets.

Even though the legal framework for media provides a solid foundation for ensuring freedom of expression, cases of threats against journalists and the lack of appropriate investigations into these cases raise serious concerns about the state of freedom of expression in the country.¹⁶⁶ There is a huge disparity between investigations and prosecution when there is unlawful interference in journalistic activities. In 2022 (January–July), police began investigation of eight cases and prosecution began in four cases. Furthermore, cases of violence against journalists during 5-6 July 2021 events remain un-investigated and, despite numerous evidence from public sources and public calls for such actions, none of the organisers of the violence have been charged.¹⁶⁷ Victims’ cases are now pending in the European Court of Human Rights.¹⁶⁸

Government officials often treat the media with a discriminatory attitude¹⁶⁹ and continue to respond to their legitimate demands with aggressive rhetoric.¹⁷⁰ The state actively fights against critical media, as was shown by the arrest and trial of broadcaster and former politician Nika Gvaramia. GYLA monitored the trial of Gvaramia, Kakhaber Damenia and Zura Iashvili in the so-called ‘Rustavi 2’ case. The court found Gvaramia guilty of abuse of

¹⁶⁴ See Coalition for Media Advocacy (Facebook page), 23 August 2021, The decision of the Communications Commission is unfounded and significantly worsens the media environment in Georgia, <https://bit.ly/3Aidz4U> updated: 31 August 2022.

¹⁶⁵ ISFED, Assessment of the Media Environment 2022, <https://bit.ly/3A2FIO8>.

¹⁶⁶ Coalition for Media Advocacy (Facebook page), 12 April 2022, ‘The Coalition for Media Advocacy responds to the facts of the attack on the employees of Formula TV’, <https://bit.ly/3ovTFyI>, updated: 31 August 2022; GYLA, (Facebook page), 9 May 2021, ‘Media coalition condemns attacks on journalists by clerics’, available: <https://bit.ly/3rIkX76>, updated: 31 August 2022; Coalition for Media Advocacy (Facebook page), 19 November 2021, ‘Coalition for Media Advocacy ‘considers the restriction of the rights of another Ukrainian journalist in Georgia as alarming’, <https://bit.ly/31FBiyG>, updated: 31 August 2022.

¹⁶⁷ See; ‘The events that took place on July 5-6, 2021 have not yet been properly investigated’ The website of GYLA, 5 July 2022, <https://bit.ly/3bXythH> updated: 31 August 2022.

¹⁶⁸ GYLA, on behalf of the victims of July 5 events, appealed to the European Court of Human rights, The website of GYLA, 07.11.2022 Available at <https://bit.ly/3Urfvkr> updated: 31 August 2022.

¹⁶⁹ See, GYLA (Facebook page), 11 November 2021, ‘Coalition for Media Advocacy calls on the Ministry of Justice to stop discrimination against journalists’, <https://bit.ly/3rKf5du>, updated: 31 August 2022.

¹⁷⁰ see Coalition for Media Advocacy (Facebook page), 17 July 2021, ‘Coalition for Media Advocacy’ partner organisations express our concern over the discrediting of ‘Main Channel’, ‘TV First’ and ‘Formula’ by the Prime Minister, as well as regarding the threats against Nika Gvaramia’, available: <https://bit.ly/3dtG9Wb>, updated: 31 August 2022; Coalition for Media Advocacy (Facebook page), 23 July 2021, ‘We call on all public figures to stop inciting hostility in society and discrediting the media’, <https://bit.ly/3EKpoSo>, updated: 31 August 2022.

power while being in charge of the broadcaster under the Article 220 of the Georgian Criminal Code.¹⁷¹ The court did not respond to concerns highlighted at different stages of the court proceedings in relation to the standards of indicting the accused, the conduct of the trial, sentencing, and the independence and impartiality of the judge, which is why it can be assumed that the verdict is unjustified. Furthermore, much of the evidence given in the courtroom gives reason to doubt the accused's guilt.¹⁷²

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

The Constitution declares access to the internet as a fundamental right of Georgian citizens.¹⁷³ Users do not face restrictions in accessing websites, uploading or downloading content, hosting their own websites, and communicating with other users via forums, social media platforms, and messaging apps.¹⁷⁴ In general, online content is not subject to deletion.¹⁷⁵ The online media environment in Georgia is increasingly diverse, and content on a wide range of topics is available.

Legislation protects the confidentiality of reporters' sources and enumerates other protections for journalists.¹⁷⁶ However, on several occasions, journalists have been questioned by investigative bodies and requested to give information about their sources.¹⁷⁷

Journalists and activists can be sued for defamation. The Law on Freedom of Speech and Expression provides for civil penalties for those found guilty of making defamatory statements.¹⁷⁸ The same law provides for the most important legal guarantee for freedom of expression, i.e. placing the burden of proof on the initiator of the restriction. Any doubt that cannot be proven shall be resolved against the restriction to freedom of speech. Legal guarantees in Georgian legislation on freedom of expression and defamation are largely based on U.S. legislation and court practice.¹⁷⁹

¹⁷¹ The article concerns using managerial, representative or other special authority in an enterprise or other organisation against the legal interest of this organisation, in order to gain advantage for oneself or others, which caused significant damage. Art. 220, Criminal Code of Georgia, <https://bit.ly/3hwR86v> updated: 31 August 2022.

¹⁷² For a detailed analysis of the case see: GYLA, 3 June 2022, 'According to Gyla, the verdict in Nika Gvaramia's case is unjustified', <https://bit.ly/3BTjlac> (in Georgian); updated: 31 August 2022; Transparency International Georgia, 8 June 2022, '5 reasons why Nika Gvaramia's verdict is unjustified', <https://bit.ly/3NsFcym>, updated: 02.11.2022, Legal assessment of the ongoing criminal case against Nika Gvaramia, <http://hrc.ge/files/40gvaramia-geo.pdf>, updated on 2 November 2022.

¹⁷³ Constitution of Georgia, Art. 17.

¹⁷⁴ Freedom House, Freedom on the Net Report 2020, <https://freedomhouse.org/country/georgia/freedom-net/2020>.

¹⁷⁵ Ibid.

¹⁷⁶ Law of Georgia on Freedom of Speech and Expression, Art. 11.

¹⁷⁷ Freedom House Report 2021; Media Advocacy Coalition, 'Media Environment in Georgia', 22.

¹⁷⁸ Arts 13-19, the Law of Georgia on Freedom of Speech and Expression.

¹⁷⁹ Transparency International Georgia, 6 June 2019, 'Why Freedom of Expression Must Not Be Restricted', <https://www.transparency.ge/en/blog/why-freedom-expression-must-not-be-restricted>.

Specific recommendations under Area 6:

- The state must respond quickly and thoroughly to allegations of illegal intervention and excessive force in the performance of professional duties by media representatives;
- The state should refrain from discriminatory attitudes towards critical media representatives and CSOs; and
- The state must refrain from proposing or adopting laws which could hinder freedom of expression.

3.7 Right to Privacy

Overall score per area: **3.8/7**

Legislation: **4.6/7**

Practice: **3.0/7**

With laws that need to be changed to keep up with international standards and practices laden with instances of violation, the area of right to privacy remains one of the most challenging for civil society in Georgia. While it was recommended in the 2021 report that statutory protections for the right to privacy be improved, particularly by aligning the existing laws with international norms, parliament continues to pass modifications that make surveillance techniques more extensive than they have ever been. This, along with the fact that there has been no improvement in investigative processes (despite the fact that the majority of recommendations under this area in 2021 were related to those), has resulted in both the overall score in this area dropping from 3.9 in 2021 to 3.8 in 2022 and the practice component score dropping from 3.1 in 2021 to 3.0 in 2022.

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

The Georgian Constitution and international treaties ratified by Georgia guarantee that everyone has the right to privacy and that there may be no arbitrary or unlawful interference with this right without court approval or legal necessity. The police are prohibited from searching a residence or from conducting non-consensual electronic surveillance or monitoring operations without a warrant.

Georgia's Law on Personal Data Protection establishes the main legal framework for the state's positive obligation to protect the right to privacy.¹⁸⁰ Georgia also has an independent

¹⁸⁰ Law of Georgia on Personal Data Protection, <https://matsne.gov.ge/en/document/view/1561437?publication=9>.

state authority, the Personal Data Protection Service, that is responsible for monitoring the lawfulness of personal data processing, covert investigative actions and activities performed within the central databank of electronic communications identification data.¹⁸¹ The service was established in the spring of 2022, after the Parliament of Georgia made an unexpected decision on 30 December 2021 to dissolve its predecessor, the State Inspector's Service, and separate its mandate between two new entities: the Personal Data Protection Service and the Special Investigative Service (investigating crimes committed by law enforcement and public officials).¹⁸² These legislative amendments were adopted in an expedited manner, without any consultation or deliberations with CSOs or even the State Inspector's Service itself.¹⁸³

Georgia still has not made any progress towards the harmonization of the Georgian Law on Personal Data Protection and related legislation with EU standards, specifically with the General Data Protection Regulation (GDPR), despite having had a draft package proposing necessary legislative amendments since 2019.¹⁸⁴

The lack of oversight of potential state surveillance and the broad mandate of state security officials in this matter remain the key areas of concern.

In the summer of 2022, the Parliament adopted amendments to the Criminal Procedure Code which allowed the possibility to conduct covert investigative actions on 27 additional crimes, increasing the number to a total of more than 75 less serious crimes, including those such as illegally erecting the state flag of Georgia.¹⁸⁵ In addition to broadening the list of crimes, the amendments increased the possible terms for surveillance from six months to nine months. Furthermore, the covert investigative actions can, with court permission, be carried out indefinitely for around 100 crimes. The amendments also relaxed the rules on the notification of persons affected by the use of covert measures.¹⁸⁶ The explanatory note for these legislative amendments included highly generic reasons to substantiate their adoption such as 'hybrid warfare' and 'cyber security threats', as well as the necessity to ensure effective investigation of crimes against the state and to fight against terrorism.¹⁸⁷

The President of Georgia used the veto power for the first time in her term to block these amendments, noting that they extensively extended the powers of the law enforcement authorities. However, the Parliament overrode the presidential veto, in addition to defying the

¹⁸¹ Webpage of the Personal Data Protection Service, <https://personaldata.ge/en/about-us>.

¹⁸² Special Investigation Service, <https://sis.gov.ge/ka/page/funqciebi>.

¹⁸³ The State Inspector, Londa Toloraia, heard about the proposed reform via the media while she was on maternity leave, neither her, nor the general public had access to the draft law, until the later stages of deliberations, Personal Data Protection Service, Statement Of The State Inspector Londa Toloraia, <https://personaldata.ge/en/press/post/7793>.

¹⁸⁴ IDFI, Brief Overview of Recent Developments in the Field of Personal Data Protection, 2021, p. 5, https://idfi.ge/en/brief_overview_of_recent_developments_in_the_field_of_personal_data_protection.

¹⁸⁵ IDFI, 'The laws governing surveillance are getting worse', https://idfi-ge.translate.google/ge/legislation_regulating_covert_surveillance_is_getting_worse?x_tr_sl=en&x_tr_tl=ka&x_tr_hl=en&x_tr_pto=wapp, (in Georgian).

¹⁸⁶ Radio Freedom, 'The President's veto has been overcome - the Parliament passed the so-called law on eavesdropping', <https://www.radiotavisupleba.ge/a/32021025.html>, (in Georgian).

¹⁸⁷ Remarks of the President of Georgia on the Law of Georgia 'On Amendments to the Criminal Procedure Code of Georgia' (7 June 2022, No. 1614-VIIIms-Xmp), <https://parliament.ge/legislation/24416>.

urgent opinion of the Venice Commission that called these amendments ‘hastily adopted’ and highlighted the lack of an oversight mechanism for the secret surveillance measures.¹⁸⁸

The adoption of these amendments has been a major setback from the basic safeguards that the Parliament had created in the previous reporting period to protect against arbitrary surveillance and covert action by investigative authorities.

The Constitutional Court of Georgia continues to delay the delivery of decisions on crucial cases pertaining to the right to privacy, including a class action by 326 citizens that challenges the constitutionality of unchecked state powers during covert surveillance.¹⁸⁹

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

The law protects CSOs from state authorities entering their premises or accessing CSOs’ documents without court approval or legal necessity and prohibits the conducting of non-consensual electronic surveillance or monitoring operations without a warrant.¹⁹⁰ In 2022, there have been no recorded cases of unlawful searching of CSO offices or the seizing of documents. Similarly, there have been no records of illegal surveillance or unauthorised monitoring of CSO representatives. However, lack of effective investigation in previous years concerning leaked files illustrating mass surveillance allegedly from state authorities is still a cause for concern.

To date, the Prosecutor’s Office has taken only incremental steps in investigating the alleged state security crimes related to the September 2021 surveillance scandal, in which leaked data illustrated the systemic surveillance of personal communications and the movements of some CSO representatives and journalists by the state authorities. The Prosecutor’s Office officially initiated an investigation into these allegations in the autumn of 2021, without ensuring much publicity of ongoing investigations, despite heightened interest. Impacted persons, including CSO representatives, have proactively applied to the Prosecutor’s Office to request victim status, but the Office has delayed this process, granting victim status to most journalists and activists involved in the data leak only several months after conducting key investigative measures. Victims’ representatives note that the Prosecutor’s Office has granted them access to only a limited number of case files, categorising large swathes of documents as secret files, as well as not undertaking necessary investigative measures, including interviewing high-level and security officials that would ensure the apprehension of the true organisers of the surveillance.¹⁹¹ In the summer of 2022, some CSOs filed an application with the European Court of Human Rights challenging noncompliance of Georgian legislation on covert

¹⁸⁸ Georgia - Urgent opinion on the Draft Law on the Amendments to the Criminal Procedure Code adopted by the Parliament of Georgia on 7 June 2022, issued on 26 August 2022 pursuant to Art. 14a of the Venice Commission’s Rules of Procedure, [https://venice.coe.int/webforms/documents/?pdf=CDL-PI\(2022\)028-e](https://venice.coe.int/webforms/documents/?pdf=CDL-PI(2022)028-e).

¹⁸⁹ Constitutional Court of Georgia, Applications N, N3/4/N885-924, 928-929, 931-1207, 1213, 1220-1224, 1231, <https://constcourt.ge/ka/judicial-acts?legal=1958>.

¹⁹⁰ Art. 15, Constitution of Georgia; Criminal Procedure Code of Georgia.

¹⁹¹ Social Justice Centre, <https://socialjustice.org.ge/ka/products/sakmis-masalebis-gatsnobis-shemdeg-sus-is-krebsebe-mimdinare-gamodziebas-vafasebt>, (in Georgian).

surveillance and wiretapping, as well as Georgia's failure to effectively investigate these crimes.¹⁹²

Georgian legislation does not mandate intrusive CSO reporting procedures, financial oversight or other accountability instruments to obtain confidential information from CSOs. In this respect, the law respects the privacy of CSO members, donors and employees, and the confidentiality of their personal data and assets.

Specific recommendations under Area 7:

- The Parliament of Georgia should adopt proposed amendments to the Law on Personal Data Protection and ensure its harmonization with EU standards, specifically with the GDPR;
- The Government of Georgia should urgently introduce necessary legal amendments to create comprehensive legal safeguards for personal data processing and covert investigative actions, including by reforming and increasing oversight of the State Security Service of Georgia. The Government should also ensure that CSOs are consulted on and engaged in the reform process from its initial stages; and
- The Prosecutor's Office should prioritise and promptly investigate alleged illegal and arbitrary surveillance of CSO representatives, journalists, and others and ensure that victims have full access to case files, at the same time updating the public on the progress of the investigation.

3.8 State Duty to Protect

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

Legislation: **5.0/7**

Practice: **3.9/7**

The applicable law mandates the state to safeguard the rights of media representatives, CSOs and persons linked with them. 2022 has been less turbulent compared to 2021, with fewer cases of massive aggression and physical attacks on CSOs, activists, media, or minority representatives. However, because of the absence of any improvements in

¹⁹² Transparency International Georgia, 18 July 2022, 'First Complaints Concerning the Wiretapping Case in 2021 have been Sent to the European Court', <https://transparency.ge/en/post/first-complaints-concerning-wiretapping-case-2021-have-been-sent-european-court>.

protective, investigation, or prevention mechanisms either in legislation or in practice, the current situation does not warrant an increase in the overall score in the area. Despite this, the state is moving on with meetings with CSO representatives with the purpose of identifying terrorism financing threats in the nonprofit sector and taking steps to provide a safe space for discussions. Although the nation has witnessed multiple 'waves' of outbreaks, the Government gradually eliminated the Covid-19-related restrictions until the country returned to a non-regulatory condition in June 2022. As a result, the score for legislation in this area increased, from 4.9 in 2021 to 5.0 in 2022, as well as the score for practice from 3.8 in 2021 to 3.9 in 2022. However, in parallel, the Government frequently accuses critical CSOs of political activity and a lack of transparency when allocating funds, and also excludes them from participation in ongoing political or social processes and discussions. As a result, the recommendations to cease the attacks on and harassment of CSOs are more relevant now than they have ever been.

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

The main legislative source imposing the state duty to protect is the Constitution of Georgia. Those obligations and rights are further augmented by the organic and regular laws¹⁹³ and strengthened and guaranteed by international treaties.¹⁹⁴ Theoretically, every individual or CSO is entitled to be protected. In case of a violation or infringement in rights, CSOs are entitled to a fair hearing of their case by an administrative body or a court within a reasonable timeframe¹⁹⁵ and to full compensation for damages unlawfully inflicted. However, in practice, cases of interference and attacks on CSOs, the occurrence and intensity of which largely depends on the country's political context, have been noted. Reporting in 2021 identified how often the state is failing to protect CSOs, media representatives and members of vulnerable groups (mostly LGBTQ+) and to neutralize the risk of unpredictable harm to these actors. Although 2022 has been more peaceful in terms of less cases of massive aggression and physical attacks on sector representatives, the impunity of those involved in crimes from 2021 remains a problem. Neither legislation, nor practice has shown any attempt to address the degree of hate and mistreatment towards specific vulnerable groups, or to improve protective and preventative mechanisms. This has left the country facing the challenge of better prevention of and reaction to cases of hate speech, bullying, physical harm and aggression towards sector representatives.

The 2022 reporting period has seen the issuing of many public statements directed against, mostly, but not limited to, watchdog organisations. This development took such a turn, that CSOs had to unite forces, make a common statement and address the issue together as sector representatives. Signatory organisations evaluated the comments by Mamuka Mdinardze¹⁹⁶

¹⁹³ Civil Code of Georgia, mainly stipulating rights associated with freedom of operation, freedom in civic relationship building, and the protection of personal rights (including ones effective for legal persons, such as reputation).

¹⁹⁴ International Covenant on Civil and Political Rights; International Covenant on Economic, Social and Cultural Rights.

¹⁹⁵ Claims related to criminal activities, such as physical harm and damage are not time limited and can be raised at any point. Timeframes of other legal proceedings vary from 1 month to 3 and 10 years according to specifics, however generally they are considered to be reasonable.

¹⁹⁶ Formula News, <https://formulanews.ge/News/76949>, (in Georgian).

and Irakli Kobakhidze,¹⁹⁷ members of the ruling party, as worrying.¹⁹⁸ In these statements, government representatives addressed specific organisations, underlining how ‘rich’ they appear to be and questioning their financial transparency.¹⁹⁹ Organisations are also alleged to be acting as ‘political parties’ causing them to be excluded from participation in the working groups organised by the parliament.²⁰⁰ The media project ‘Fact-Meter’ (FactCheck.ge) by Georgia’s Reforms Associates (GRASS) became the object of groundless accusations, with critics stating that GRASS is spreading disinformation, lies and is working in the interests of radical opposition.²⁰¹ These accusations lack a legal basis²⁰² and have a discrediting effect on CSOs, since such statements can be considered as an early signal and a threat to the free environment. The signatory organisations request that government officials:²⁰³

1. Stop attacking and harassing non-governmental organisations;
2. Strengthen the participation of the civil sector, including its critical members, in the decision-making process and conduct a healthy discussion and dialogue with them; and
3. Ensure the existence of a safe and free environment for the activities of civil organisations and human rights defenders, which is expressed by declaring public support for them, as well as by effective investigation of crimes committed against them.

In the 2022 reporting period, it can finally be concluded that the impact of the Covid-19 pandemic on the CSO environment in Georgia has considerably decreased. Although the country has experienced several ‘waves’ of outbreaks since, starting in March 2022, the Government has lifted the restrictive regulations (such as the obligation to close restaurants at a certain time, to have ‘green passports’ to prove the fact of vaccination, to wear a face mask outside and in public vehicles, and to provide a negative Covid-19 test at the border to enter the country) step-by-step, until the country returned to a non-regulative state from June 2022 onwards.²⁰⁴

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

Legislative measures used to fight extremism, terrorism, money laundering or corruption remain unamended and are unspecified in regard to CSOs. No problematic cases of extreme

¹⁹⁷ 1TV, <https://1tv.ge/news/irakli-kobakhidze-isfedisa-da-saertashoriso-gamchvirvalobis-adgili-ver-iqneba-verc-ert-samushao-processhi-isini-aghar-arian-arasamtavroboebi-bolomde-dapozicioni/>, (in Georgian).

¹⁹⁸ CSI, 16 September 2022, Joint Statement of NGOs, <https://civilin.org/en/information/joint-statement-of-ngos/>.

¹⁹⁹ One of the statements in regards to CSOs: <https://mtavari.tv/news/96723-sazogadoebas-mivacvdi-im-enjeobis-mediis-ekspert>, (in Georgian).

²⁰⁰ One of the statements in regards to CSOs: <https://tabula.ge/ge/news/691265-kobakhidze-qvelaze-mdidari-ngo-ebis-kharjebi>, (in Georgian).

²⁰¹ One of the statements in regards to CSOs <https://www.interpressnews.ge/ka/article/725967-irakli-kobaxizis-gancxadebit-ramdenime-didi-arasamtavrobo-organizaciis-pinansuri-shemosavlebi-kitxvis-nishnebs-achens>, (in Georgian).

²⁰² One such statement has been evaluated as ‘false’ by the fact-checking platform, <https://factcheck.ge/en/story/40869-eka-gigauri-called-on-the-public-to-invade-tskhinvali>.

²⁰³ CSI, 16 September 2022, Joint Statement of NGOs, <https://civilin.org/en/information/joint-statement-of-ngos/>.

²⁰⁴ Information about the lifting of the Covid-19 regulations, <https://stopcov.ge/ka/page/restrictions-list>.

regulation of CSOs, or the targeting of the CSO sector for CTF purposes were specifically identified during this reporting period. Although fundamental freedoms of existing CSOs are not overly restricted by legislation developed in relation to AML and CTF,²⁰⁵ the state fails to assess terrorism financing risks in the CSO sector, making it impossible to adequately mitigate them.²⁰⁶ For this reason, Georgia remains one of the most poorly-rated countries (given the status of non-compliant) by MONEYVAL²⁰⁷ in relation to FATF Recommendation 8.²⁰⁸ Although the responsible authorities have stated that work in progress is intensive, there has not been any significant progress in the 2022 reporting period. This situation and stakeholders' attempts to bring the Government's attention to this issue, forced the state to start the process of achieving compliance as soon as possible. With this aim, the responsible state authority, the LEPL Financial Monitoring Service of Georgia, has reached out to interested CSO representatives and invited them to start discussions, share information and create working groups to think about how to assess risks and integrate appropriate measures in relation to CSOs.²⁰⁹ As a result, an online meeting was held on 10 October 2022. CSOs had the opportunity to familiarize themselves with the ongoing processes and understand the state's position, as well as to share their visions and experiences, and speak about the necessity to avoid an unwanted excessive impact on the sector as a result of this process. Discussion has identified relevant issues, such as a lack of classification of CSOs on the basis of their fields of activity or other criteria and an inability to define certain actors as 'nonprofit organisations' (NPOs) for FATF purposes. It should be noted that both sides are ready to actively participate in meetings and working group discussions around these issues in the future.²¹⁰

Specific recommendations under Area 8:

- The state should use all necessary measures to ensure the existence of stable safety and protective measures against hate crimes towards CSO representatives that safeguard them, regardless of the prevailing political or social environment;
- State representatives, government authorities and other representatives of the ruling party should stop attacking and harassing CSOs, must strengthen the participation of critical CSOs in the civil sector and ensure the existence of a safe and free environment for the activities of civil organisations and human rights defenders; and
- To guarantee compliance with MONEYVAL guidelines, while avoiding undue deterioration of the CSO environment, the LEPL Financial Monitoring Service of

²⁰⁵ Ibid, p. 198.

²⁰⁶ Ibid.

²⁰⁷ IDFI, 26 November 2020, 'MONEYVAL assessment of Georgia on money laundering (ML) and terrorism financing (TF)', https://idfi.ge/en/moneyval_assessment_of_georgia_on_money_laundering_and_terrorism_financing.

²⁰⁸ Council of Europe, 2021, Anti-money laundering and counter-terrorist financing measures Georgia, Fifth Round Mutual Evaluation Report, <https://rm.coe.int/moneyval-2020-20-5th-round-mer-georgia/1680a03271>.

²⁰⁹ CSI, 13 October 2010, <https://civilin.org/information/9703/> (in Georgian).

²¹⁰ IDFI, MONEYVAL assessment of Georgia on money laundering (ML) and terrorism financing (TF), 2020, https://idfi.ge/en/moneyval_assessment_of_georgia_on_money_laundering_and_terrorism_financing.

Georgia should continue communication with CSO representatives and ensure their involvement at every step of their activities.

3.9 State Support

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

Legislation: **4.4/7**

Practice: **4.0/7**

Legislation pertaining to state support mechanisms enables CSOs to request financial assistance from public institutions. The procedure is governed by general norms, allowing room for the required adjustments to enable greater predictability, openness, and impartiality in these requests. Although Georgia has implemented a new draft of the Law of Public Procurement, included a goal to support volunteerism in its 2030 development strategy, and made some changes in VAT-refund mechanisms that have made the overall procedure more complex, none of these changes are considered significant, and Georgia's state funding model has remained the same as in previous years. As a direct consequence, the area score also remains the same as in 2021. Georgian municipalities, which are regarded as self-governing entities, are still unauthorised to issue monetary grants based on the areas of duty that come within their jurisdiction. Little to no progress has been achieved in making grant-awarding processes more transparent and available for public scrutiny. Similarly, in the realm of philanthropic giving, there have been no noteworthy advances in recent years.

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

There are various state-funding mechanisms available to CSOs such as grants, subsidies and state procurement. The state is allowed to provide in-kind support to CSOs, however legislation does impose certain limitations in this regard. For example, it is prohibited for the municipalities to lend public premises free of charge, for any reason whatsoever, requiring local CSOs to seek alternatives (such as auction, lease, or usufruct) for renting spaces which are state property.²¹¹ Furthermore, new amendments to the Law of Public Procurement have been initiated to make it more compliant with the EU Directive 2004/18/EC. Suggested amendments create additional opportunities for purchasers in the field of socially-relevant services to consider the criterion of social benefit while choosing the supplier and conducting public procurement. This increases the chances for CSOs and social entrepreneurs to appear as a desired bidder when the purchase should be accompanied with a social benefit. Although

²¹¹ The issues of free transfer of self-government property are regulated by the Organic Law of Georgia 'Local Self-Government Code' (05/02/2014, N1958), Arts: Art. 24, para. 1, subclause 'E', Art. 54, Para. One, 'D. Sub-para. C, paras 8 and 9 of Art. 106 Prima, paras 4 and 5 of Art. 122.

it is a draft project that must go through a legislative assessment process before being finalised, the very existence of the initiative can be seen as a beginning for positive change. A voucher system (intervention by the Government to redeem vouchers for eligible beneficiaries to purchase services on the open market, actively used in areas such as education policy, urban management, and so on) and so-called ‘programme financing’ (in which municipalities provide budgetary co-financing to public organisations which cannot be called a grant, while implementing their own programmes to develop youth policies, promote culture, sports, and art, and promote social protection projects, etc.) which basically serve as a less-transparent and purely regulated alternative to state grants, continue to be the main mechanisms of support used by municipalities.²¹² Although the lists of government bodies that are authorised to issue grants remain more or less stable, the total amount of funding distributed by state entities to CSOs changes somewhat year by year and by institution.²¹³ Participants in the focus group meeting²¹⁴ provided information about certain cases, showing systematic defects. For example, the Youth Agency's 2021 competition, in which participants were to receive grants ranging from 15,000 to 30,000 GEL (approx. 5,500–11,000 EUR) was cancelled. The contestants did not receive feedback, the Agency did not contact them, and it did not provide reasons for why the competition was cancelled. According to unofficial information, this could have been triggered by the Agency's ongoing internal reorganisation. After this, the Agency announced a grant competition in three directions within the framework of the current year's sub-programme. The grant competition has a total amount of 200,000 GEL (approx. 73,000 EUR). However, at present, the winning organisation(s) have not been identified, and no funding has been provided.

Bias towards CSOs critical of the authorities, a lack of feedback and transparency and reliance on political will of the governing body when making final decisions were all identified as issues relevant in practice.

According to the public information sought from the appropriate authorities, the aggregate statistics connected to the funds received by CSOs from state grantors within the current reporting period are as follows (figures in GEL approximately converted into EUR):

Grantor	Amount (in 2021)	Amount (in 2022)	Number of Recipient CSOs
1. LEPL - International Center of Education	150,000.00 GEL / 54,937 EUR	150,000 (GEL) / 54,937 EUR	1 (in 2022)
2. LEPL - Innovation and Technology Agency of Georgia	0	0	-

²¹² Under the objective 2.1 of the Decentralisation Strategy for 2020-2025, the Government undertook a commitment to simplify the legislative framework related to issuing municipal grants. However, this objective has not yet been translated into specific activities.

²¹³ Association of Young Economists of Georgia, Monitoring Report of State Grants Issued in 2019, p.40, <https://csogeorgia.org/storage/app/uploads/public/601/92b/03c/60192b03c4daf041569703.pdf>.

²¹⁴ Held on 20 October 2022.

3. LEPL – Youth Agency	0	As yet unknown (ongoing competitions)	As yet unknown (ongoing competitions)
4. LEPL - 'Shota Rustaveli National Science Foundation of Georgia'	1,852,304.31 GEL / 678,400 EUR	1,534,256.32 GEL / 561,916 EUR	28 (in 2022)
5. Ministry of Justice	257,919 (GEL) / 94,462 EUR	As yet unknown (ongoing competitions) ²¹⁵	14 (in 2021)
6. National Center for Professional Development of Teachers	0	0	-
7. Rural Development Agency	0	0	-

Other public entities have stated that they have either not been issuing grants at all, or have not submitted responses to the request for public information.

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

Although, according to the Open Government Partnership (OGP) Action Plan (Commitment 12), work on reforming the existing grant funding system of state/public institutions to 'increase transparency of the public grant funding system' should have started back in 2018, unfortunately, to date, no uniform regulatory standard for the allocation of grants by public institutions exists.²¹⁶ Current procedures in force entitle grantors to adjust granting requirements based on the grantor's needs and interests. Although government ministries are required to demonstrate the necessity of the grant issuance, as well as agree on the purpose and the amount of the grant with the Government (with the Prime Minister of Georgia if the amount of the grant does not exceed 50,000 GEL (approx. 13,700 EUR)²¹⁷ or with the Ministry of Finance if it does), there are no clear and uniform legislative standards, timelines, or argumentation details that ministries must follow or provide during the announcement of calls, receipt of grant applications or decision-making process.

Decisions can be appealed to the higher administrative body or the court, but practice is not promising for potential claimants.²¹⁸ In the majority of situations, the courts or administrative authorities will use the argument that the Grant Competition Commission members' judgement is based on subjective factors that go beyond legal evaluation and will most likely deny the claimant's request for a change in outcome.²¹⁹ Practice also demonstrates that the

²¹⁵ Ministry of Justice of Georgia, <https://justice.gov.ge/?m=articles&lang=1&id=ZpiCvdXZp6>.

²¹⁶ This initiative was also reflected in 2018-2019 OGP Action Plan that was adopted by the 12 November 2018, N537 Government Decree.

²¹⁷ This process is regulated by Resolution/Ordinance 126 of 14 March 2011.

²¹⁸ Ibid. Court decision N3/8587-15, 18 May.

²¹⁹ Association of Young Economists of Georgia, Monitoring Report of State Grants Issued in 2019, p. 40, <https://csogeorgia.org/storage/app/uploads/public/601/92b/03c/60192b03c4daf041569703.pdf> (in Georgian).

degree of transparency and objectivity in the grant giving process could be enhanced. Grantors are only publishing information about new competitions, but are not transparent about how different stages of the ongoing competition are handled. According to CSO representatives, sufficient arguments and comments are not usually provided to applicants once judgments are made, participants do not have efficient mechanisms to monitor the process or to require adequate feedback from grantors even if the ongoing competitions are cancelled, as proven by the abovementioned recent case with the Youth Agency.²²⁰

Standard III. CSOs enjoy a favourable tax environment.

After switching to the so-called 'Estonian Model' of taxation, CSOs are eligible to develop non-essential economic activities and invest their income in their statutory purposes, without being obliged to pay profit taxes.²²¹ CSOs are also exempt from paying property taxes, unless they use property for economic activities. CSOs still benefit from the availability of VAT exemptions and the system for VAT refunds under grant programmes.²²² However, technically, the procedure for a VAT refund became more complicated.²²³ A new regulation went into effect on 20 September 2022, making it impossible to obtain a VAT refund from a legal partnership when the contractor's debt towards revenue services surpasses 25,000 GEL (about 9,156 EUR). Because CSOs have just three months to submit a refund request, there is a greater chance that the contractor would fail to settle the bill on time, leaving the organisation without the VAT money. As a result, CSOs are being obliged to revise procurement standards when purchasing from a supplier and to continually verify the financial status of a possible contractor before contracting.

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

While no benefits exist for individuals, businesses can receive tax benefits only while providing donations to registered charities.²²⁴ Companies that assist charitable organisations can deduct the amount donated for charitable reasons from their net profit and avoid paying taxes on it. The maximum amount that can be deducted from net income for this reason is 10 per cent of the joint net income. The cost of donated goods and services (except the cost of real estate and/or services)²²⁵ are also deductible together with the donations.²²⁶ The regulation's purpose is to assist charity organisations, but there is no actual evidence of any tangible benefit to them.²²⁷ Internal and precise data about the amounts given for charity purposes, especially in recent periods, are not available. Practice does not indicate any recent incentives.

²²⁰ Association of Young Economists of Georgia, Monitoring Report of State Grants Issued in 2019, pp. 40-41, <https://csogeorgia.org/storage/app/uploads/public/601/92b/03c/60192b03c4daf041569703.pdf> (in Georgian).

²²¹ Tax Code of Georgia a.97(2).

²²² The list of privileged beneficiaries is provided on the website: <https://www.rs.ge/TaxPrivileges>.

²²³ <https://rs.ge/LawNewsArchive?newsId=780>.

²²⁴ Tax Code of Georgia, Art. 10, 32, a list of registered charities can be found on the following webpage: <https://www.rs.ge/CharityOrganisation>.

²²⁵ This rule has an exception. Once real estate is granted to the charity organisation where people with special needs are employed (according to the stipulations of law), the amount of real estate also falls within the scope of an incentive.

²²⁶ Tax Code of Georgia, Art. 32.

²²⁷ CAF, World Giving Index 2019, p. 17, https://www.cafonline.org/docs/default-source/about-us-publications/caf_wgi_10th_edition_report_2712a_web_101019.pdf.

Although the law requires information about the finances of charity organisations to be made available, it does not specify the form in which this should be done.²²⁸

Standard V. Legislation and policies stimulate volunteering.

Despite the fact that volunteerism is legal and officially defined, no official support mechanisms exist to build the environment for volunteering, maintain adequate volunteer conditions, and attract individuals to serve.²²⁹ Though tax exemption measures for volunteer costs were launched concurrently with the law, they were neither evaluated nor debated at the time. The sole item that was observed within the reporting period in relation to this topic is the approval of Georgia's 2030 development strategy, which states that:

*'attention will be paid to the development of volunteer activities in terms of the development of young people. Mechanisms, programmes, and resources will be developed to promote the development, regulation, encouragement, and recognition of high-quality volunteer opportunities and the field of volunteerism. To ensure that the public is better informed about volunteering and its positive outcomes, information and educational campaigns will be implemented.'*²³⁰

However, practically speaking, philanthropy and corporate social responsibility (CSR) still remain underdeveloped in Georgia.²³¹

Specific recommendations under Area 9:

- The Government of Georgia should develop unified legislative standards for state funding, encompassing clear guidelines for the award process (participatory decision-making, preliminary identification of selection criteria, avoidance of conflicts of interest, transparency, etc.), preventing discriminatory and arbitrary decisions, and further institutionalising transparency and accountability standards;
- The state institutions should develop a system for managing state grants and publishing information about ongoing processes, proactively enabling the participants to monitor the process, submit questions, receive information and feedback and/or submit complaints;
- The Government should encourage state institutions to support local initiatives by adding municipalities to the list of grant-issuing entities by introducing relevant legislative amendments;

²²⁸ Tax Code of Georgia, Art. 32, 10, 30.

²²⁹ <https://civilin.org/wp-content/uploads/2022/06/Philanthropy.pdf>, p. 90 (in Georgian).]

²³⁰ <https://matsne.gov.ge/ka/document/view/5604706?publication=0>, 3.7 - Youth policy, task 8.2 - Promotion of youth development and realization of their potential (in Georgian).

²³¹ U.S. Department of State, '2021 country reports on human rights practices: Georgia', <https://www.state.gov/reports/2021-country-reports-on-human-rights-practices/georgia/>.

- The tax authorities should consider strategies to allow CSOs to file a VAT refund request after three months if the previous request was refused because of the contractor's debt;
- The tax authorities should process and proactively publish general data about donations and charity activities within the country to comply with the transparency standards applicable for charity work; and
- The Government should encourage philanthropy by providing tax benefits to individual donors, and not just to businesses, and begin to execute initiatives in practice.

3.10 State-CSO Cooperation

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

Legislation: **4.2/7**

Practice: **3.9/7**

Georgia does not have any standardised tools or a comprehensive strategy to improve state-CSO collaboration. Even though the OGP legislative framework is a one-of-a-kind way for CSOs and the state to work together, in practice it is often ineffective because there is not enough political will to quickly create and put action plans into place. This is the primary reason why the OGP has been criticised as being ineffective. As a consequence of the absence of institutional mechanisms, collaboration at both the national and local levels continue to rely primarily on the discretion of particular decision-makers. Because of this, the scores in this area are the same as they were in 2021. The recommendations made in previous reporting cycles, which mostly aim to improve the effectiveness of existing tools for cooperation and put the general goal of sector strengthening on the state's agenda, still apply.

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

Georgia still has not adopted a uniform system that would promote and institutionalise CSO development and cooperation between the state and CSOs.

To date, there is only fragmentary legislation and policies that support measures for state-CSO cooperation.

A Memorandum for Cooperation that was signed in 2013 by the Parliament of Georgia and more than 145 CSOs still remains the backbone for state-CSO cooperation. The document consists of ten articles, encompasses sets of principles for successful state-CSO cooperation and calls upon the Parliament and CSOs to elaborate a State Concept for Supporting the Development of CSOs.²³² The development of the Concept started in 2014, and its adoption was planned as part of the Parliament's Open Parliament Georgia Action Plan 2015-2016.²³³ A broad range of CSOs were involved in developing this document. The Concept envisions state support for CSOs and the establishment of policy dialogue between the Parliament and CSOs.

Unfortunately, the Parliament still has not made any progress on actually adopting the Concept, despite extending the consideration period of the document under the new Convocation of the Parliament.²³⁴

The lack of supportive policy documents also translates into a lack of resources and capacity to effectively facilitate state-CSO cooperation.

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

Contrary to the lack of supportive policy documents, Georgian legislation has created more diverse instruments to support state cooperation with CSOs, in the form of their engagement in advisory bodies, committees, and working groups. These consultative bodies are usually created on specific issues and invite the collaboration of CSOs for their expertise in specific fields. However, these instruments are not systematically codified and the selection criteria for the participation of CSOs in consultative bodies are not always clear which allows for arbitrary decisions.

These consultative bodies are more frequently utilised by local governments, employing both cooperation platforms pre-established by the Code on Local Government, as well as creating ad hoc committees and consultative bodies on a plethora of local issues.²³⁵

The OGP framework still remains the key mechanism for dialogue and cooperation between the state and CSOs. It legislatively sets out a unique cooperation model between the state and CSOs; however, its practice falls short of the legislative framework. In 2020, the Government of Georgia established the Open Governance Inter-Agency Coordination Council in which CSOs are represented with a consultative voting power, consequently establishing a co-creation platform.²³⁶ Although a relatively effective tool has been created in the form of the

²³² MOU between the Parliament of Georgia and CSOs, 2013,

<https://csogeorgia.org/storage/app/uploads/public/5d6/92c/744/5d692c7445d4e962122596.pdf>.

²³³ Open Parliament Georgia Action Plan 2015-2016,

[https://idfi.ge/public/upload/Open%20Parliament%20Georgia%20Action%20Plan%20\(2015-2016\).pdf](https://idfi.ge/public/upload/Open%20Parliament%20Georgia%20Action%20Plan%20(2015-2016).pdf).

²³⁴ Draft 'On Approval of the State Concept for Supporting the Development of Public Organisations,'

<https://parliament.ge/legislation/20546>.

²³⁵ For instance, Ozurgeti municipality has established a co-funding scheme on social issues in partnership with local CSOs, <https://matsne.gov.ge/ka/document/view/5562242?publication=0>.

²³⁶ IDFI, 13 February 2020, 'The Open Governance Inter-agency Coordination Council has been established',

https://idfi.ge/en/ogp_coordination_council.

Council, it largely remains nominal and does not provide structural state-CSO cooperation in practice due to a lack of political will, since it has only conducted working meetings to discuss potential activities and no actual council meeting has been held during the reporting period. Despite some incremental progress compared to 2021, attributable to a couple of CSO consultations and working meetings that were organised by the secretariat, Georgia has still not adopted an OGP action plan, already missing the entire cycle, as well as failing to adopt or implement a single OGP reform in almost three years.

Some local governments have established local OGP implementation working groups that have local CSOs as members.²³⁷ Contrary to the central government OGP Coordination Council that in practice remains ineffective, local governments are actively utilising collaboration with CSOs to effectively implement OGP action plans.

The Local Self-Government Code also establishes important guarantees for supporting cooperation with CSOs. The local governments, in addition to traditional instruments such as advisory councils and gender equality councils, have started setting up consultative bodies (including thematic councils, commissions and working groups) more consistently to study certain issues within their competence and invite CSO representatives to be members of these bodies.²³⁸

CSOs note that, even though there are some formal platforms facilitating cooperation with CSOs, such as working groups, advisory councils and others, CSOs still struggle to effectively influence policy-making. According to focus group participants, the effectiveness of engagement and the policy impact of CSOs is largely dependent on how contentious a specific issue might be and also largely depends on the personal will of the decision-making authority, illustrating a lack of an institutional framework properly guaranteeing dialogue. CSOs usually attend decision-making hearings or provide written submissions without any feedback from the state authorities, which further reduces the possibilities for them to consolidate their positions. Some CSOs have remarked that some examples of state-CSO cooperation are bestowed by donor organisations and do not have long-term viability outside of specific projects. Therefore, CSOs have noted their decreasing interest in engaging in some of these schemes, which prove ineffective from a policy-influencing perspective.

Georgian legislation also establishes high level cooperation platforms on the issues of labour rights, employment and social policy in tripartite format, engaging state authorities, representatives of workers and employers in a dialogue. The Tripartite Social Partnership Commission is a consultative body chaired by the Prime Minister of Georgia²³⁹ and, mirroring this model, the Labor Inspection Service has an advisory board with a similar composition, plus the Ombudsman's Office.²⁴⁰ Despite the importance of this cooperation platform, especially for trade unions, the selection process of the actual representatives of workers,

²³⁷ Webpage of the Ozurgeti municipality, <http://ozurgeti.mun.gov.ge/?p=7394>.

²³⁸ L. Gogidze, Peculiarities Of Open Governance Practices At The Local Level In Georgia, 2021.

²³⁹ Labour Code of Georgia, Art. 82, <https://matsne.gov.ge/en/document/view/1155567?publication=21>.

²⁴⁰ The Law of Georgia on Labour Inspection, Art. 8, <https://matsne.gov.ge/ka/document/view/5003057?publication=0>.

employers, organisations and commission members is not clearly prescribed and transparent. For instance, the New Confederation of Trade Unions, representing smaller independent trade unions that are not represented in other confederations, was not given membership of the Tripartite Commission, despite complying with legislative requirements and uniting a representative number of workers, effectively limiting the voices of hundreds of workers in these platforms.²⁴¹

Grassroot movements organised for particular causes have an especially hard time obtaining proper recognition and establishing cooperation platforms with the Government. A citizen movement called 'Hippodrome-Concreteless Side', uniting urban activists, experts and citizens, was established to advocate for more environmentally-friendly and citizen-oriented development of the central park in Tbilisi on the territory of the former racecourse. The group has publicly urged, as well as officially applied to the Tbilisi City Hall with the request to engage in the discussions over the park project, as well as requesting meetings with the Mayor. However, despite these attempts, there have been no public consultations held by the City Hall over the project.

Focus group participant CSOs have remarked that, overall, government representatives have been more hostile to engaging in political dialogue with critical watchdog organisations, while remaining amenable to cooperating with CSOs on less politically-sensitive reforms. At the same time, some CSOs feel reluctant to engage in public consultations, considering the increased verbal attacks on their colleagues coming from the same politicians who they have to engage with later. However, regional organisations, service providers and thinktanks that are less critical of government policies and/or work on less politically-sensitive issues (youth empowerment, social issues, education, etc.) have experienced some successful state-CSO cooperation both at central and local levels.

Specific recommendations under Area 10:

- The Parliament of Georgia should adopt the State Concept of CSO Development and ensure its effective implementation, including by encouraging the Government to adopt the systemic vision for state-CSO cooperation at all levels of the decision-making process and further institutionalise these standards;
- The state institutions, especially the Government of Georgia, should respect and affirm its obligations within the OGP framework, including by adopting OGP action plans and allocating sufficient financial and administrative resources for implementing necessary policy steps for efficient CSO-state cooperation; and

²⁴¹ Georgian Fair Labor Platform, https://shroma.ge/wp-content/uploads/2022/01/Tripartism-and-New-Conf_Final_2021-2.pdf.

- The state agencies should be open for cooperation and establish public councils and/or other consultative bodies for dialogue and cooperation in a transparent and accountable manner, including with critical watchdog organisations.

3.11 Digital Rights

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

Legislation: **5.1/7**

Practice: **4.7/7**

The right to freely access and use the internet is protected by the Georgian Constitution. Internet users in Georgia are able to express themselves and use online platforms to advocate for a variety of public policy topics. Despite this, the Government still faces a number of challenges in this area, including the need to establish and implement effective supervision mechanisms to provide appropriate protection against digital crimes and the leakage of sensitive information gathered from online sources. The Government of Georgia should continue to build a legislative framework, ethical and transparent standards, and guidelines for the development, implementation, and use of AI.

The area of digital rights is an emerging area for which knowledge and assessment in relation to the CSO environment is evolving. For that reason, this area was re-scored in all countries of the EaP region. This is the reason behind the significant increase of the overall score from 4.3 in 2021 to 4.9 in 2022. Other positive developments that affected the increase in score were the fact that the number of internet users in Georgia is continually increasing, as well as the Government's success in developing internet infrastructure in certain remote regions of the country. This fact alone does not change anything about the recommendations made in this area in the 2021 report. In terms of development of digital rights, the country still has a long way to go, and there are still regulatory gaps when it comes to the development and use of AI. Oversight mechanisms need to be improved, and the process of making it possible to use internet resources more effectively and more widely must be permanent and ongoing.

Standard 1. Digital rights are protected, and digital technologies are compliant with human rights standards.

Digital rights encompass all fundamental human rights applicable in the digital sphere. According to the Constitution, Georgian citizens have the right to access and freely use the internet.²⁴² Digital rights are also protected by the Law of Georgia on Freedom of Speech and Expression, as legal provisions protecting freedom of expression are also applicable to the

²⁴² Art. 17 of the Georgian Constitution, amended in 2018, regulating 'Rights to freedom of opinion, information, mass media and the internet, The Constitution of Georgia, <https://matsne.gov.ge/en/document/view/30346?publication=36>.

internet by law.²⁴³ The restriction of these rights may be allowed only in accordance with the law, insofar as is necessary for a democratic society for ensuring national security, public safety or territorial integrity, for the protection of the rights of others, for the prevention of the disclosure of information recognised as confidential, or for ensuring the independence and impartiality of the judiciary.²⁴⁴ In addition, government control might be imposed over the domestic internet during a period of martial law or a state of emergency.²⁴⁵

Another relevant legal development in the sphere of digital rights is the recent amendments to the Law of Georgia on Information Security, which came into force at the end of 2021. These changes fundamentally changed the cybersecurity architecture of Georgia by expanding the mandate of the Operational-Technical Agency (OTA) of the State Security Service to become the main coordinating and supervisory body of information and cybersecurity. This means that the OTA was authorised to have direct access to the information systems of the executive and legislative authorities, as well as the telecommunications sectors, and indirect access to personal and commercial information.²⁴⁶ To avoid illegal and disproportionate processing of personal data and to ensure that the law is in compliance with EU directives (including the GDPR and Network & Information Systems (NIS) Directives), CSO representatives recommended, among other things, to codify norms for better safeguards for personal data protection from critical information system subjects and relevant supervisory bodies as well as to adopt legal mechanisms for ensuring effective cooperation and information sharing with the public authority responsible for data protection when dealing with cyber-incidents and potential personal data breach cases.²⁴⁷ Despite a public pledge from the ruling party to initiate relevant changes to the modified law to harmonize it with the European legislation,²⁴⁸ no progress has yet been made in this regard. On 30 December 2021, a new list of critical information system subjects was adopted, which increased their number from 40 to 98 and divided them into three categories.²⁴⁹

Digital freedoms are generally protected in Georgia, as online users do not encounter obstacles in expressing themselves online or using online communication tools and platforms

²⁴³ The law defines media 'as print or electronic means of mass communication, including the Internet'. Law of Georgia on Freedom of Speech and Expression, <https://matsne.gov.ge/en/document/view/33208?publication=5>.

²⁴⁴ 'Constitution of Georgia,' Legislative Herald of Georgia, <https://matsne.gov.ge/en/document/view/30346?publication=35>.

²⁴⁵ 'On Martial Law,' Legislative Herald of Georgia, <https://matsne.gov.ge/document/view/28336?publication=3>.

²⁴⁶ IDFI. 'The Parliament of the X Convocation adopted the problematic 'Law on Information Security' with the III reading,' https://idfi.ge/en/the_parliament_of_the_10_convocation_adopted_the_problematic_draft_law_on_information_security.

²⁴⁷ IDFI, Ensuring Personal Data Protection in Cyberspace: Challenges and Needs of Georgia, https://idfi.ge/en/protection_of_personal_data_in_cyberspace.

²⁴⁸ Parliament of Georgia, Parliament Endorsing Changes to Law on Information Security with III Reading, <https://parliament.ge/en/media/news/parlamentma-informatsiuli-usaftrtkhoebis-shesakheb-kanonshi-dagegmilitsvilebebi-mesame-mosmenit-miigho>.

²⁴⁹ Ordinance of the Government of Georgia, <https://matsne.gov.ge/ka/document/view/2333175?publication=0>. More details and analyses on the changes can be found here: IDFI. Protection of Personal Data in Cyberspace: Insufficient Legal Guarantees and Recommendations, https://idfi.ge/ge/cybersecurity_applies_to_the_need_for_legal_guarantees_for_the_protection_of_personal_data (in Georgian).

for disseminating information and launching campaigns on various public policy issues.²⁵⁰ Over the past year, there have been no reported cases of the Government limiting or shutting down access to the internet, blocking social media platforms or websites of opposition parties, activists or CSOs. There have, however, been several reported cases in past years in which online users have been interrogated for posts they have published on Facebook.²⁵¹ Also, in an isolated case, in July 2022, an online user was kept in a pre-trial detention centre for 48 hours for a Facebook post he wrote offending and swearing at police officers.²⁵² Eventually, the court issued a fine of 2,500 GEL (approx. 891 EUR) to the user. The decision is being brought before the appeals court.²⁵³ In addition, a former public official argued that he was discriminated against for his critical social media posts and appealed to the court against the Ministry of Education, Culture and Sport of the Adjara Autonomous Republic.²⁵⁴

Alleged violations of the right to privacy by the security services remain a major challenge for Georgia in recent years. The most recent alleged leaked files from the State Security Service²⁵⁵ demonstrated that journalists, opposition leaders, CSO representatives, activists, clergy, and even diplomats have had their communications monitored.²⁵⁶ CSOs have consistently voiced their view that the regulatory and institutional framework governing covert surveillance fails to ensure adequate protection of privacy. Despite the fact that the leaked data mostly concerned mobile communications, these leaks demonstrated that violations of the right to privacy are a significant challenge for the country.²⁵⁷

The GNCC, the main telecommunications regulatory body, has also been criticised for a lack of transparency and accountability,²⁵⁸ for its ‘selective’, ‘inconsistent’ decisions²⁵⁹ as well as controversial legislative changes with regard to internet service providers (ISPs) in recent years.²⁶⁰ Since September 2020, due to new legislative changes to protect children, the GNCC regularly updates a list of websites considered dangerous for children, with the indication of

²⁵⁰ Freedom House, Freedom on the Net, Georgia, 2021, <https://freedomhouse.org/country/georgia/freedom-net/2021>.

²⁵¹ Formula TV/News, ‘Misha Mshvildadze was summoned by the State Security Service for interrogation regarding his Facebook post’, <https://formulanews.ge/News/68522> (in Georgian).

²⁵² Based on the arrest warrant, he ‘verbally insulted the police officers with targeted, rude, humiliating, obscene words harming honour and dignity’.

²⁵³ Batumelebi, ‘A man was Fined 2,500 GEL for a Facebook post - the Judge's Decision’, <https://batumelebi.netgazeti.ge/news/439205/> (in Georgian).

²⁵⁴ Batumelebi, ‘I was punished because of critical posts on Facebook - they complain to the Ministry of Education of Adjara’, <https://batumelebi.netgazeti.ge/news/426981/> (in Georgian).

²⁵⁵ IDFI, 17 September 2021, ‘IDFI responds to the Leak of surveillance files’, https://idfi.ge/en/idfi_responds_to_the_leak_of_secret_surveillance_documents.

²⁵⁶ Civil.Ge, 13 September 2021, ‘Alleged Security Service Files on Clergy Leaked’, <https://civil.ge/archives/440008> <https://civil.ge/archives/440783>.

²⁵⁷ IDFI, Violation of the Right to Privacy - a Systemic Challenge for Georgia, https://idfi.ge/en/violation_of_the_right_to_privacy_a_systemic_challenge_for_georgia.

²⁵⁸ IDFI, Shortcomings in the Transparency of the Activities of the Georgian National Communications Commission, https://idfi.ge/en/communication_commission-transparency_gaps.

²⁵⁹ GYLA, Georgian Presidential Election Observation Mission 2018, <https://bit.ly/3qziWtg>.

²⁶⁰ IDFI, Analysis of the Opinion Published by the Venice Commission: Legal Instrument of the Special Manager Violates the Requirements of the Convention. https://idfi.ge/en/analysis_of_the_venice_commission_report.

an appropriate age mark, for ISPs and parents.²⁶¹ Since August 2022, after warnings from the GNCC, websites hosting pirated content have been blocked.²⁶²

The online media environment in Georgia is increasingly diverse, and content on a wide range of topics is available. Digital mobilisation is a regular feature of political life. Political and civil society groups frequently post calls to action on social media platforms and use them to communicate with their supporters and to organise offline events or demonstrations. As far as other challenges for online users are concerned, particular groups of people, including female political candidates, journalists,²⁶³ and members of the LGBTQ+ community, encounter online harassment and bullying. In addition, various groups have engaged in online manipulation and the dissemination of fake news.²⁶⁴ Also, in certain cases, female politicians, journalists and political candidates have experienced online harassment through abusive comments in response to posts on Facebook pages and profiles of majoritarian candidates during the recent parliamentary and local elections.

With regard to the use of digital technologies, especially of AI by public institutions, the latest report on the issue has found that different state institutions use at least six AI systems, including facial recognition used by law enforcement agencies.²⁶⁵ Despite this, the country lacks normative acts regulating the use of AI systems and documents that define its ethical norms in relevant agencies. This means that the impact of these digital technologies on citizens is unknown, and it is unclear if these technologies are compatible with human rights standards. The only exception is in the financial sector as, in 2020, the National Bank of Georgia, by the Order of the President NI51/04, adopted regulation for financial institutions to define the principles of risk management and administrative-organisational control mechanisms when developing data-driven statistical, AI and machine learning models.²⁶⁶ The order was updated in May 2022 and, among other changes, contained an obligation for banks to develop ethical principles and some transparency mechanisms were added.²⁶⁷

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

The Government's efforts to expand the internet infrastructure have shown some progress over the past year. As of April 2022, as a result of two pilot projects, internet infrastructure

²⁶¹ The list is available on the GNCC website: <https://registry.comcom.ge/ChildCodes.aspx>.

²⁶² OC-Media.org, 29 August 2022, 'Georgian authorities crack down on illegal streaming sites', <https://oc-media.org/georgian-authorities-crack-down-on-illegal-streaming-sites/>.

²⁶³ CRRC, December 2020, 'Violence against women in politics on Facebook', <https://bit.ly/3fLFth8>.

²⁶⁴ Kintsurashvili, Tamar. 'Anti-Western Propaganda,' <http://mythdetector.ge/en/research/anti-western-propaganda-2020>.

²⁶⁵ IDFI, 19 February 2021, Artificial Intelligence: International Tendencies and Georgia - Legislation and Practice, https://idfi.ge/en/artificial%20intelligence_international_tendencies_and_georgia. The following AI systems used by particular public institutions were reported: (a) Facial recognition system of the expert – Ministry of Internal Affairs; (b) License plate and facial recognition system – Public Safety Command Center 112 – Ministry of Internal Affairs; (c) IBM 12 artificial intelligence analytical software – Prosecutor's Office of Georgia; (d) Automatic Analysis of Sentiments ('Emotions are Georgia') – Georgian National Tourism Administration; (e) Associative Data Analysis – Education Management Information System; and (f) DLP and Translation Memory Module – National Center for Educational Quality Enhancement.

²⁶⁶ Ibid. p. 24.

²⁶⁷ Legislative Herald of Georgia, Order of the President of the National Bank of Georgia, <https://matsne.gov.ge/ka/document/view/4964423?publication=1>.

became available for 62 settlements with a combined population of around 40,000. As of now, infrastructure development works are underway in four different locations.²⁶⁸ These efforts were made as part of a five-year strategy for the development of broadband networks adopted in 2020, which aims to ‘develop infrastructure and transform the country into a digital and information hub in the region.’ According to the strategy, 4G networks should cover 99 per cent of the country’s territory by 2025. Also, since 2017, the Telecom Operators Association of Georgia, with the financial support of international organisations, public and private sector representatives, has been implementing community network projects, which provided internet access for several mountainous regions of Georgia (Tusheti, Pshav-Khevsureti, and Gudamakhari).²⁶⁹

A high majority (88.4 per cent) of Georgian households have internet access²⁷⁰ and it is estimated that 76.4 per cent of individuals have internet access in the country.²⁷¹ There is no gender gap among Georgians who use the internet regularly, but there are differences regarding age and geographic location.²⁷² The internet is not equally accessible in all regions of the country, especially in rural or underdeveloped areas. Of these, the region of Racha-Lechkhumi and Kvemo Svaneti in north-western Georgia is by far the most underdeveloped region, with a broadband internet penetration rate of only 15 per cent.²⁷³ Also, Georgia’s internet market is concentrated among two to three ISPs, which results in a minimal level of competition. There are also concerns regarding the quality of the services provided (especially regarding internet speed).²⁷⁴ As far as ISPs are concerned, in October 2022, the Parliament of Georgia with engagement from the private sector started discussions on the adoption of legislative changes on infrastructure sharing.²⁷⁵

Several agencies have protection mechanisms in place when it comes to digital rights. For instance, the Public Defender of Georgia supervises the protection of human rights and

²⁶⁸ Information gathered from the State Procurement website, where the tender details and documents are available about these projects: <https://tenders.procurement.gov.ge/>.

²⁶⁹ More details about the project could be found here: <http://toa.ge/en/project/georgian-highlands-community-internet-projects/>.

²⁷⁰ National Statistics Office of Georgia, Information and Communication Technologies Usage in Households, <https://www.geostat.ge/en/modules/categories/106/information-and-communication-technologies-usage-in-households>.

²⁷¹ International Telecommunication Union (ITU), <https://www.itu.int/en/ITU-D/Statistics/Pages/stat/default.aspx>.

²⁷² To demonstrate this gap, according to the data as of July 2022, around 43 per cent of people aged 60+ had used the internet within the last three months, while the same measures for other age groups fluctuated between 78 and 95 per cent. At the same time, 71 per cent of the rural population had used the internet within the last three months, while the same measures for urban population amounted to 86 per cent. GeoStat. Information and Communication Technologies Usage in Households, <https://www.geostat.ge/en/modules/categories/106/information-and-communication-technologies-usage-in-households>; e-Governance Academy. Research and recommendations of digitally vulnerable groups in Georgia, <https://ega.ge/publication/digitally-vulnerable-groups-georgia/>.

²⁷³ Data from the Communications Commission as of August 2021, <https://analytics.comcom.ge/ka/statistics/?c=internet&f=subscribers&exp=penetrationbyregion&sid=953942>.

²⁷⁴ Freedom House, Freedom on the Net, Georgia, 2022, <https://freedomhouse.org/country/georgia/freedom-net/2022>.

²⁷⁵ BM.Ge. ‘Infrastructure sharing - what will the new law change in the communication market?’, <https://bm.ge/ka/video/infrastrukturis-gaziareba---ras-shecvlis-axali-kanoni-sakomunikacio-bazarze/34225> (in Georgian).

freedoms in the country,²⁷⁶ the Personal Data Protection Service (previously as State Inspector's Service) is responsible for monitoring the lawfulness of personal data processing,²⁷⁷ while the Public Defender of Consumers' Interests under the GNCC is entitled to protect the rights and legitimate interests of consumers in the field of electronic communications and broadcasting.²⁷⁸ However, more awareness-raising activities among citizens are needed to educate them on their rights and existing protection mechanisms to encourage their effective use.

There are several examples of the state using digital tools to further human rights. For instance, with the support of international donors, new domestic violence features were added to the Georgian emergency hotline (112) mobile app, which, among other things, enables potential victims to use the silent alert or chat options while seeking help.²⁷⁹ In addition, hundreds of public and private services are accessible for Georgia's citizens through the Unified Portal of Electronic Services (*my.gov.ge*). The number of digital services increased during the pandemic. There have not been any reported cases stating that the deployment of these digital tools endangered the exercise of human rights, the safety of activists, CSOs, or the protection of their sensitive data.

Raising digital literacy among the general public plays a vital role in improving digital privacy and protections. Largely, it is CSOs, as well as the GNCC and other relevant public institutions, that are providing digital skills to citizens through preparing guidebooks, awareness-raising campaigns and offering training on digital and media literacy and cyber hygiene. These activities are, however, sporadic and it is therefore difficult to assess their impact.²⁸⁰ In 2022, with financial support from USAID, the GNCC, the Ministry of Education and Science of Georgia, and UNICEF Georgia launched the integration of media literacy into formal education.²⁸¹ In addition, the Ministry of Economy and Sustainable Development is currently drafting the Digital Economy and Information Society Development Long-term Strategy, which was initially due in 2021. To ensure effective coordination between the Government and the private sector when developing the strategy, in 2022, the Ministry established the Digital Transformation Council.²⁸² Among other issues, the national strategy is expected to cover issues such as digital skills, infrastructure, e-services and legislation.

²⁷⁶ More details about the mandate of the Public Defender of Georgia can be found here:

<https://www.ombudsman.ge/eng/mandati>.

²⁷⁷ More details about the Personal Data Protection Service can be found here: <https://personaldata.ge/en/about-us>.

²⁷⁸ More information about the GNCC Public Defender can be found here: <https://comcom.ge/en/momxmareblis-uflebebi>.

²⁷⁹ More details about the app and its new features can be found here:

<https://georgia.unwomen.org/en/news/stories/2019/03/new-domestic-violence-features-added-to-112-mobile-app>.

²⁸⁰ Council of Europe, Mapping and Needs Assessment of Media Literacy Practices in Georgia, <https://rm.coe.int/en/1680a5789e>.

²⁸¹ UNICEF, 13 July 2022, 'The Communication Commission, the Ministry of Education and Science and UNICEF start integrating media literacy into formal education', <https://uni.cf/3N5dlEy>.

²⁸² Agenda.Ge., 11 April 2022, 'Economy Ministry pledges 'very high' involvement of international partners in Georgian economy's digital transformation policy', <https://agenda.ge/en/article/2022/9>.

Specific recommendations under Area 11:

- The Government of Georgia should design and implement effective oversight mechanisms to ensure proper accountability and transparency of law enforcement agencies in regard to digital rights and privacy;
- The Government should elaborate a legislative framework, ethical and transparency standards, and guidelines on AI design, deployment, and use. When elaborating these guiding principles and laws, the process should be open, inclusive and diverse stakeholders should be engaged;
- To ensure accountability, the Government should also outline procedures for auditing the operations of AI systems, and publish the results of such inspections.
- The Government should continue and accelerate its efforts to improve internet infrastructure, competition, and quality in the sector to enable Georgian citizens to equally exercise digital freedoms and use new technologies;
- The Government should also prioritise increasing digital resilience and awareness of the general public which can be better achieved through public-private collaboration and joint efforts; and
- The Government should create a regulatory framework that will reduce AI-related threats, risks and challenges.

IV. KEY PRIORITIES

Georgia has a generally enabling ecosystem for civil society, and the overall country score has remained the same as in 2021. Through promoting good governance, respect for human rights, social inclusion, and public governance, CSOs actively influence Georgia's journey towards a more democratic society. Recent unsettling developments in the CSO-government relationship, however, raise the possibility that the CSO environment will be subject to restrictions and government intrusion if the attitude towards CSOs that are deemed critical of the authorities does not change, if there are no institutional guarantees that CSOs are involved in the creation of laws and legislative amendment processes from their beginning, and if there is no wider dialogue with the CSO sector.

The state has made some progress by actively working on FATF Recommendation 8. To ensure that these steps result in the successful completion of a process whose outcomes will benefit all parties involved, without imposing unlawful restrictions, the responsible authorities must maintain communication with CSO representatives and ensure their participation at all stages of activity, especially during the NPO risk assessment process.

The newly-enacted Law on Entrepreneurship modifies how legal entities are established and managed. This impacts both new CSOs and those currently in existence. Yet, there are still many unsolved problems about how to develop uniform standards and what additional duties non-profit organisations may have as a result of these legal changes. Existing organisations should be given instructions and explanations to ensure that they can satisfy their legal obligations correctly and prevent undesirable outcomes such as losing their status. Time is of the essence and, therefore, this must be carried out as swiftly as possible.

Although CSOs have almost unlimited operational flexibility, the Government does nothing to assist the civil society sector to expand and become stronger. As their primary partners, CSOs depend largely on the assistance of foreign donor organisations.

Since the last report, Georgia has made relatively minor modifications to its legislative framework and associated policies. The majority of concerns identified in earlier reports remain unresolved. Thus, the prior set of recommendations to provide a favourable environment for CSOs in Georgia remains relevant.

The ten priority actions for the improvement of the civil society environment (key recommendations) for the Georgian authorities are:

1. The Government of Georgia should design and adopt unified standards/rules on public consultations of draft laws and other normative acts at the national level, including by clearly setting participation as the obligatory stage in the elaboration of decrees, draft

- laws, strategic documents, and other instruments and establish redress mechanisms for their violation;
2. State representatives, government authorities and other representatives of the ruling party should stop attacking and harassing CSOs, must strengthen the participation of critical CSOs in the civil sector and ensure the existence of a safe and free environment for the activities of civil organisations and human rights defenders;
 3. The Government should urgently introduce the necessary legal amendments to create comprehensive legal safeguards for personal data processing and covert investigative actions, including reforming the State Security Service of Georgia and increasing its oversight. The Government should also ensure that CSOs are consulted on and engaged in the reform process right from its initial stages;
 4. Government authorities should develop unified legislative standards for state funding, encompassing clear guidelines for the award process (participatory decision-making, preliminary identification of selection criteria, avoidance of conflicts of interest, transparency, etc.), preventing discriminatory and arbitrary decisions, and further institutionalising transparency and accountability standards;
 5. To guarantee compliance with MONEYVAL guidelines while avoiding undue deterioration of the CSO environment, the LEPL Financial Monitoring Service of Georgia should continue communication with CSO representatives and assure their involvement at every step of its activities;
 6. The Ministry of Justice should clarify instructions pertaining to legal entity registration procedures and issue clear guidance regarding specific obligations related to changes to registered data, how changes in legislation on entrepreneurship affect non-entrepreneurial entities, what specific responsibilities are meant for CSOs under the new law, and what the expected legal consequences for CSOs are;
 7. A registering entity should only be required to fulfil procedural requirements stipulated in the Law on Entrepreneurship if these are directly allowed by the Civil Code of Georgia and relate to and make sense in relation to CSOs;
 8. The Prosecutor's Office should prioritize and promptly investigate alleged illegal and arbitrary surveillance of CSO representatives, journalists, and others, and ensure that all relevant actors are granted victims status and have access to case files, at the same time updating the public on the progress of investigations;
 9. The Government should encourage state institutions to support local initiatives by adding municipalities to the list of grant-issuing entities by introducing relevant legislative amendments; and
 10. The Government should continue and accelerate its efforts to improve internet infrastructure, competition and quality in the sector to ensure that Georgian citizens are equally able to exercise digital freedoms and use new technologies.

V. METHODOLOGY

The CSO Meter supports regular and consistent monitoring of the environment in which CSOs operate in the Eastern Partnership (EaP) countries. It consists of a set of standards and indicators in 11 different areas to measure both law and practice. It is based on international standards and best practices. The CSO Meter was developed by a core group of experts from ECNL and local partners from the six EaP countries.

Since 2020, ECNL has worked with the methodology experts RESIS on adapting the CSO Meter methodology package to enable for both qualitative and quantitative comparison of the different areas of the enabling environment across the EaP countries and years. The proposal for this model was consulted on and tested with the extended regional CSO Meter Hub via email and an online event. With the updated comparison model, we aim to (i) assess the environment for civil society in each of the 11 areas; (ii) enable tracking of developments/progress throughout the years per country; and (iii) compare the environments regionally.

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

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

Monitoring process

The report was prepared by the leading local CSOs: The Civil Society Institute (CSI), the Georgian Young Lawyers' Association (GYLA) and the Institute for Development of Freedom of Information (IDFI), following a joint methodology for all six EaP countries.

The report assesses the key developments and overviews progress and the main challenges both in terms of the legislative framework and in practice.

The report was developed through an inclusive process including active consultancies with CSOs. The working group has incorporated various research methods to collect and comprehensively analyse relevant data.

At the initial stage, the project team thoroughly reviewed the existing legislative framework, including the implemented and pending reforms that affect the civil society ecosystem. To fully assess how certain standards and policies are implemented in practice, the project team requested public information from various governmental agencies, the Parliament of Georgia, the National Agency for Public Registry, and others.

In order to obtain data on the amounts of grants issued by state entities to participating NNLEs during the fiscal year 2021-2022, a request letter was sent to 15 different authorities, including ministers and legal entities of public law (LEPLs). Seven of them provided information, four stated that they were not currently issuing grants, and the remaining four provided no information at all.

The project team also analysed secondary sources, including surveys, reports and assessments published by local and international organisations and the public authorities, which helped to converge and outline the main trends and challenges.

As part of the qualitative research, the project team organised two focus groups and several in-depth interviews. To allow inclusive participation, focus groups were held through the Zoom platform in October 2022. Twenty CSOs from 13 different municipalities participated in the focus groups. The participants had various backgrounds and represented different experiences, fields of work, and legal statuses.

In addition to the focus group, the research team also organised in-depth interviews with the leading human rights organisations, field experts and state agencies. Namely, individual interviews were conducted with the following individuals:

Mariam Mirotadze is a member of the initiative group ‘Orbeliani Meti’ with experience in project management, training, and contributing to the development of fundraising systems and campaigns. She discussed practical issues arising from the lack of a legislative foundation for philanthropy, charity performance, volunteerism, and fundraising as a concept.

Giorgi Kekenadze, a lawyer and legal practitioner with experience handling legal transactions for both domestic and international clients, discussed the new entrepreneurship law and how it affects the process of CSO registration, as well as recent or previous cases of registration refusal to demonstrate how legislative changes may affect practice.

Mamuka Berdzenishvili from the Institute of Tourism and **Teona Diasamidze** from the Batumi branch of the Center for Democratic Inclusion discussed the challenges they faced when approaching banks in Georgia to open bank accounts for CSOs.

Mariam Pataridze, an attorney with the Social Justice Center, discussed legislative trends and the practical environment pertaining to freedom of assembly and the right to privacy.

The project team also participated in a working meeting organised by Belarusian activists residing in Tbilisi, to collect information regarding the challenges relocated Belarusian activists and CSO representatives face in Georgia, including obstacles in obtaining a CSO bank account.

The report reviews the sets of standards that are part of the CSO Meter and provides recommendations for improvement in each of the 11 areas covered. These recommendations

could serve as a basis for future reforms that the relevant state authorities can undertake to improve the environment for civil society in Georgia.

The current report covers the period from January 2022 to November 2022. Important developments for civil society that occurred between the period of data collection and finalisation of the report have been included in the executive summary of the report but have not been considered when assigning scores.

The draft country narrative report was reviewed by the Advisory Board members in Georgia via online communications. Based on the recommendations of the Advisory Board members, the findings and recommendations were further revised and finalised.

Scoring process

The country researchers and the 10 Advisory Board members in Georgia reassessed each standard of the 11 areas of the CSO Meter tool in legislation and practice where change has occurred. Accordingly, scores have increased in cases where progress is shown, and decreases are motivated by certain cases of deterioration. The final score of each standard was then calculated according to a formula in which the researchers' score participates with 50 per cent, and the Advisory Board members' average score with 50 per cent. The score of each area is then calculated as the average value of the final scores of each standard and calculated and rounded with one decimal for presentation purposes. Generally, for the scoring procedure, a 7-point scale is used. The extreme values of the scale are conceived as the most extreme or ideal situation or environment. For example, (1) is an extremely unfavourable (authoritarian) environment, while (7) is an extremely favourable (ideal democratic) environment for CSOs. For more information on the CSO Meter tool, the scoring process, and the calculation, please visit <https://csometer.info/>.

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