

CSO METER

A compass to conducive
environment and
CSO empowerment

UKRAINE 2023

COUNTRY REPORT

KYIV





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CSO Meter 2023: Ukraine Country Report

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The Ukrainian Center for Independent Political Research (UCIPR) is a non-governmental and non-partisan think tank that develops democratic procedures in public policy, thus promoting the idea of the irreversibility of democratic changes among the public. UCIPR focuses on the study of socio-political processes in Ukraine and the EU Member States, generates ideas and advocates proposals for good governance, and carries out civic and political education activities.

European Center for Not-for-Profit Law Stichting (ECNL) is a leading European resource and research centre in the field of policies and laws affecting civil society. ECNL creates knowledge, empowers partners and helps set standards that create, protect, and expand civic freedoms.

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ABBREVIATIONS & ACRONYMS

AI	Artificial intelligence
AML/CTF	Anti-money laundering / counter-terrorism financing
BEB	Economic Security Bureau of Ukraine (<i>Byuro ekonomichnoyi bezpeky Ukrayiny</i>)
CEDEM	Centre for Democracy and Rule of Law
CMU	Cabinet of Ministers of Ukraine
CSO	Civil society organisation ^{1, 2}
EaP	Eastern Partnership
ECHR	European Convention on Human Rights
ECNL	European Center for Not-for-Profit Law Stichting
EU	European Union
EUR	Euro
GDP	Gross Domestic Product
GDPR	General Data Protection Regulation
ICCPR	International Covenant on Civil and Political Rights
IDP	Internally displaced person
IMI	Institute of Mass Information
ISP	Internet service provider
LSGB	Local self-government body
NACP	National Agency on Corruption Prevention

¹ Meaning of 'civil organisation' according to the Law of Ukraine 'On Public Associations', No. 4572-VI, 22.03.2012 last amended 27.04.2021, <https://zakon.rada.gov.ua/laws/show/4572-17#Text>.

² Meaning of 'charitable organisation' according to the Law of Ukraine 'On Charitable Organisations and Charitable Activities', No. 5073-VI, 05.07.2012 last amended 02.06.2021, <https://zakon.rada.gov.ua/laws/show/5073-17#Text>.

NBU	National Bank of Ukraine
OHCHR	UN Office of the High Commissioner for Human Rights
Parliament	Supreme Council of Ukraine (<i>Verkhovna Rada Ukrayiny</i>)
SBU	Security Service of Ukraine (<i>Sluzhba bezpeky Ukrainy</i>)
UAH	Ukrainian Hryvnia
UBO	Ultimate beneficial owner
UCIPR	Ukrainian Center for Independent Political Research
USD	United States Dollar
UVF	Ukrainian Veterans Foundation
VAT	Value Added Tax

I. EXECUTIVE SUMMARY

Country context and important trends relevant to the civil society environment

This report reflects the changes in the civil society organisation (CSO) environment during the reporting period from January to December 2023 in Ukraine. Most of these changes are related to the further adaptation of CSOs during the second year of the Russian Federation's full-scale invasion of Ukraine.

During 2023, the full-scale invasion remained a factor that consolidated public mobilisation to respond to new crises and threats. In this context, the year 2023 was particularly marked by the fact that civil society and the state as a whole were more focused on creating favourable conditions for further post-war recovery. In other words, the vector of attention in almost all assessed areas has changed from the point-based, operational problem solving typical at the beginning of 2022 to strategic planning and development of thorough concepts for further action.

Ukrainian civil society and the state have not only learned to live in a state of war, but also to take significant steps forward both in legislation and practice which were not previously implemented in peacetime. This indicates a strong tendency to adapt to adverse conditions and allows us to assert that 2022 has become the base year for building common effective rules of the game under martial law conditions.

Ukraine is still assessing the real number of victims of Russian aggression among Ukrainian citizens active in the civic space, including those who have died as a result of illegal shelling of civilian transport used for the evacuation or delivery of humanitarian aid. This is due to the fact that the number of victims during 2023 increased daily, taking into account both further active military actions by the Russians and large-scale environmental disasters provoked by Russian war crimes. During 2023, in the temporarily-occupied territories of Ukraine, including Crimea, the number of killed, tortured and kidnapped Ukrainian citizens active in public space increased. There are probably many more such cases than those that are known and the number of incidents will only increase over time.

In the territories occupied by Russia, it is almost impossible to engage in social activities due to the huge security risks. Activists and those with a Ukrainian patriotic stance are

persecuted by the Russian occupying forces. Active shelling of frontline territories and cities continues and this is a direct threat to CSOs working in these regions (mostly in Kherson, Zaporizhzhya, and Kharkiv oblasts). For example, one of the most tragic cases was the shelling of a theatre in Chernihiv in August 2023, when an exhibition on drones, organised with the involvement of volunteers, was taking place there.³

During the reporting year, it was possible to improve and develop the skills of operational flexibility, the use of digital tools and the ability to quickly shift attention to the most urgent needs of society, from humanitarian aid in conditions of environmental and manmade disasters, to urgent advocacy for the adoption or cancellation of changes to legislation.

In 2023, despite the challenges of the war, public organisations in Ukraine adapted even more than previously and strengthened their ability to monitor and control the actions of the authorities and to carry out domestic and international advocacy.

Key developments in the civil society environment

During 2023, positive changes have taken place in some analysed areas. In the second year of the full-scale Russian invasion, the overall score for the CSO environment in Ukraine remained unchanged compared to 2022 – 4.7 out of 7. The highest scores in 2023 remained Freedom of Association (5.6), Equal Treatment (5.3) and State-CSO Cooperation (5.3). Right to Privacy (4.1) and State Duty to Protect (3.7) have the lowest scores.

The scores increased in areas such as State Support (from 4.3 in 2022 to 4.4 in 2023) and State-CSO Cooperation (from 5.2 in 2022 to 5.3 in 2023). This is a result of the return of the award procedure and the distribution of state support for CSOs. It is also a result of intensified work on the implementation of the National Strategy for the Development of Civil Society 2021-2026 which translated into specific improvements such as, among others, the organising of a ‘Week of Civil Society’, a number of public consultations between the Government and CSO representatives, and the return of state contests for CSOs.

³ Ukrinform, ‘The drone exhibition, which took place in Chernihiv, was agreed with the local authorities - the organisers’, 19 August 2023, (in Ukrainian) <https://www.ukrinform.ua/rubric-regions/3750415-vistavka-droniv-aka-prohodila-u-cernigovi-bula-pogodzena-z-miscevou-vladou-organizatori.html>.

Also, as a result of advocacy on the part of CSOs and businesses, access to the Unified State Register of Legal Entities, Individual Entrepreneurs, and Public Organisations and other public registers was partially restored by electronic key identification. Another significant event, also linked to the Right to Participation in Decision-Making, is that, since 10 December 2022, the National Agency on Corruption Prevention (NACP) provided an open access to the Unified State Register of Declarations of Persons Authorised to Perform State or Local Self-Government Functions, what was one of the requirements from civil society.

The main areas of activity for CSOs in 2023 were assistance to persons who have suffered as a direct result of the Russian invasion, providing legal aid, informing citizens about the events of the war, meeting the needs of the Armed Forces of Ukraine, and documenting war crimes and crimes against humanity committed by the Russian armed forces and pro-Russian forces in Ukraine. Meanwhile, because Russia did not occupy new territories, compared to 2022, the number of internally displaced persons (IDPs) decreased. The emphasis of assistance from CSOs in this area therefore shifted to helping IDPs from 2022 to integrate and fully socialise in their new communities, their basic needs having already mostly been met. In addition, in connection with the liberation of previously-captured territories by Ukrainian military forces and their de-occupation, CSOs faced the task of helping residents who had remained in these territories to return to a normal life. CSOs also actively participated in reconstruction (and, in some locations, took on a significant proportion of its implementation themselves) and comprehensively supported people returning home from evacuation in, for example, establishing a life, covering educational needs, and rebuilding houses and social infrastructure.

In Ukraine, the volunteer movement continues to gain popularity with volunteers having created local and all-Ukrainian networks during the second half of 2022 and in 2023. The specialisation of volunteers became clearly visible, even among those who at the beginning of the full-scale invasion had helped everyone by all possible means. CSOs, in cooperation with businesses and the authorities, continue to create humanitarian initiatives and initiatives to help military personnel and their families, including support for the families of missing and dead military personnel. In addition, changes in the legislation related to volunteering continued. These related to the support of volunteer activities, life and health insurance for volunteers, the introduction of initiatives on volunteer training and a culture of volunteering at schools

which promotes the development of a culture of volunteerism among students and improves legislation on volunteering itself. Therefore, historically high scores in the areas of Freedom of Association and State-CSO Cooperation further increased in 2023, despite the war.

One of the challenges faced by CSOs in the reporting period was ensuring the physical and psychological safety of public activists, especially in the temporarily-occupied territories. Also, the new draft law on lobbying which appeared in November 2023 threatened the advocacy activities of CSOs by potentially equating advocacy with lobbying, violating the recommendations of the European Union (EU) concerning conditions for the introduction of lobbying regulations. Further, the law on public consultations was not adopted.

The process of importing humanitarian aid has been somewhat complicated by the new rules in accordance with Resolution No. 953 of the Cabinet of Ministers of Ukraine (CMU), which requires that the list of goods that are planned to be imported as humanitarian aid be determined in advance, as well as that records be kept and reporting be undertaken by set deadlines. Although the Resolution was intended to make the importing of humanitarian aid more transparent, the risks for the work of individual volunteers were not taken into account. The new rules will come into force on 1 April 2024, but from 1 December 2023 they are already operating in test mode.

Key priorities

A list of seven key priorities is set out here as a pathway, mainly for state institutions, on the most relevant steps to be undertaken to ensure an enabling environment for civil society:

1. The state should avoid the emergence of legislation restricting the work of CSOs;
2. Parliament should adopt the Law of Ukraine 'On Public Consultations'; the Draft Law No. 7283 on amendments to the Law of Ukraine 'On Local Self-Government in Ukraine' and other legislative acts of Ukraine regarding people's power at the level of local self-government;
3. Improve the legal environment for engaging volunteers by Ukrainian CSOs, particularly in the areas of taxation and guarantees;
4. The Government should continue the implementation of the Action Plan for the National Strategy for the Promotion of Civil Society Development for 2021-2026, especially in the field of development of participation mechanisms and laws for volunteers, taking into account the state of war and the features of martial law;

5. The Government should involve CSOs in the process of post-war recovery and in the activities of the National Council for Recovery (or other relevant bodies should they be established);
6. CSOs, with the support of donors and state institutions, should develop various fundraising mechanisms, including CSOs' business activities, the tax designation mechanism, social contracting, etc; and
7. The relevant authorities should ensure the proper and effective investigation of attacks on journalists and public activists, both in the context of crimes in the Russian Federation and at the national level.

II. UKRAINE – IN NUMBERS

Population: no data for 2023 | **GDP per capita:** USD 5.22 thousand (2023)⁴ | **Number of CSOs:** 133,641⁵ (2023) | **CSOs per 10,000 inhabitants:** 31.42 (2023) | **Registration fee for a CSO:** None | **Freedom in the World 2023:** 50/100 (Partly Free) (2023)⁶ | **World Press Freedom Index 2023:** 61.19 (79th out of 180 countries) (2023).⁷



Country score: 4.7
Legislation: 5.1
Practice: 4.3

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

Areas	Overall	Legislation	Practice
Freedom of Association	5.6	5.6	5.5
Equal Treatment	5.3	5.4	5.1 ↓
Access to Funding	4.7	5.0	4.4
Freedom of Peaceful Assembly	4.7	4.9	4.5
Right to Participation in Decision-Making	4.7	5.1	4.3
Freedom of Expression	4.9	5.5	4.2
Right to Privacy	4.1	4.9	3.2
State Duty to Protect	3.7 ↓	4.0	3.4 ↓
State Support	4.4 ↑	4.7 ↑	4.0 ↑
State-CSO Cooperation	5.3 ↑	5.7 ↑	4.8 ↑
Digital Rights	4.8	5.1	4.4

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

⁴ International Monetary Fund, <https://www.imf.org/external/datamapper/NGDPDPC@WEO/UKR?zoom=UKR&highlight=UKR>.

⁵ Includes public associations, charitable organisations and public unions.

⁶ Freedom House, 'Freedom in the World' Index 2023, Ukraine, <https://freedomhouse.org/country/ukraine/freedom-world/2023>.

⁷ Reporters Without Borders. '2023 World Press Freedom Index', <https://rsf.org/en/country/ukraine>.

III. FINDINGS

3.1 Freedom of Association

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

Legislation: **5.6/7**

Practice: **5.5/7**

Legislation in the field of freedom of association remains favourable and stable for CSOs despite martial law and the overall score in this area remains unchanged. CSOs are not limited either in their areas of work or in their sources of funding. With the help of CSOs, the authorities worked on enabling special legislation on the regulation of activities and the state registration of public associations (still to be adopted). Also, the Government began to develop a methodology for determining the ultimate beneficial owners (UBOs) of CSOs in cooperation with experts from the civil sector. At the same time, there were attempts to introduce restrictive legislation for CSOs (for instance, the Draft Law on Lobbying and the Draft Law on Reporting for Heads of CSOs).

1) Freedom of association was ensured during martial law.

For the duration of the martial law imposed due to the full-scale Russian invasion of Ukraine, the Government established the features of state registration of public formations under martial law⁸ that continued to be implemented. First, the state registration of public associations and charitable organisations is carried out in accordance with CMU Resolution No. 209. The administrative fee is not charged for the state registration of charitable organisations, public associations, and other entities and persons who ensure national security and defence. Secondly, the state registration of a separate unit of a foreign non-governmental organisation, a representative office, or a branch of a foreign charitable organisation can be carried out through its accreditation, without acquiring the status of a legal entity. For the accreditation, it is necessary to apply to the Ministry of Justice with a clearly prescribed list of documents and the procedure takes twenty working days. The registration fee is 28 per cent of the

⁸ CMU Resolution No. 209, 'Some issues of state registration and functioning of unified and state registers, the holder of which is the Ministry of Justice, in the conditions of martial law', <https://zakon.rada.gov.ua/laws/show/209-2022-%D0%BF#Text>.

subsistence minimum. For example, the subsistence minimum for a non-disabled person on 1 January 2023 was UAH 2,589 (approximately 77 EUR). Therefore, the registration fee for accreditation of a separate unit is about 21 EUR. In 2022-2023, 253 international technical assistance projects were registered in Ukraine, supported by foreign states and international organisations.⁹

In addition, the Draft Law ‘On Regulation of Activities and State Registration of Public Associations’¹⁰ was prepared by the Ministry of Justice of Ukraine in cooperation with the UCIPR. The Draft Law includes a number of improvements, such as increasing the number of CSO registration bodies; reducing the number of required documents; reducing registration deadlines from 3 business days to 24 hours; establishing a single organisational and legal form for public associations; the introduction of a ‘model option’ for registration; a reduction in the mandatory requirements for the applicant’s charter; and granting CSOs freedom of choice to independently establish the procedure and rules of their decision-making. Despite some CSOs fearing a possible re-registration issue for already-existing organisations, especially such types as *unions*, in general consultation all parties agreed that the Draft Law aims to minimise risks for everyone. In January 2023, the Draft Law was approved on its first reading. However, as of the end of October 2023, it has still not been adopted.

Another draft law was registered in Parliament in September 2023, introducing public financial reporting obligations for the leadership of public associations. Draft Law No. 10035 ‘On Amendments to Article 23 of the Law of Ukraine on Public Associations to ensure openness for the society of information about financial reporting of public associations’ provides that directors and persons in higher management positions in public associations, as well as legal entities created by them (companies and enterprises), are obliged to annually submit information on their income and assets.¹¹ The provisions are potentially going to become burdensome for CSOs. They also misinterpret international standards, by using accountability and transparency as a

⁹ Government Portal, ‘List of registered projects with procurement plans’, <https://www.kmu.gov.ua/diyalnist/mizhnarodna-dopomoga/pereliki-zareyestrovanih-proektiv-z-planami-zakupivel>.

¹⁰ Draft law ‘On Regulation of Activities and State Registration of Public Associations’. Draft Law of Ukraine registered 28.09.2022 #8084 (in Ukrainian), <https://itd.rada.gov.ua/billInfo/Bills/Card/40561> [last visited 28.12.2022].

¹¹ CSO Meter, ‘Ukraine: New proposal would require CSO directors to declare income and assets’, 19 September 2023, <https://csometer.info/updates/ukraine-new-proposal-would-require-cso-directors-declare-income-and-assets>.

justification to introduce restrictions and by identifying governing bodies with the organisations as a whole. If the Draft Law is adopted, CSOs will have to undertake additional reporting to the already-existing reporting system, which will negatively affect their work. The Draft Law is not considered to be unpopular among members of parliament or with the Government. At the same time, it is still under consideration by the committee of the Verkhovna Rada of Ukraine on Legal Policy.

A further negative initiative that could become a restriction on freedom of association for CSOs was the Draft Law on Lobbying and Advocacy, initiated by the NACP.

2) The Government took encouraging steps to support CSOs in determining their UBOs.

At the beginning of 2023, the Government planned to develop a methodology for determining the UBOs of CSOs which would take into account the specifics of the organisational structure of CSOs. The Government managed to involve a wide range of CSO representatives¹² and independent experts in this process and the new methodology was introduced in November 2023. The guidance explains how to identify the UBO of a legal entity, including a CSO, but the obligation for CSOs to provide data on their UBOs remains in place. This has caused concern for some organisations and does not meet the requirement of civil sector experts to exclude CSOs from the list of entities obliged to provide information on their UBOs. The Centre for Democracy and Rule of Law (CEDEM) has conducted explanatory work for CSOs on this topic.¹³

Recommendations:

- Parliament should adopt the Draft Law 'On Regulation of Activities and State Registration of Public Associations' after consultation with CSOs;
- The authorities should enable contact points for CSOs for proper communication (taking into account the security situation in the country); and
- The state should avoid the emergence of legislation that restricts the work of CSOs.

¹² Government Portal, 'The government approved the Methodology for determining the ultimate beneficial owner by a legal entity', (in Ukrainian) <https://www.kmu.gov.ua/news/uriad-zatverdyl-metodolohiiu-vyznachennia-iurydychnoiu-osoboju-kintsevoho-benefitsiarnoho-vlasnyka>.

¹³ CEDEM, 'How CSOs should submit information about UBOs - expert opinion', (in Ukrainian) <https://cedem.org.ua/news/vidomosti-pro-kbv/>.

3.2 Equal Treatment

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

Legislation: **5.4/7**

Practice: **5.1/7**

The overall score in the area of Equal Treatment remained unchanged from 2022. There were no changes in legislation in terms of the state's treatment of CSOs compared to its treatment of business organisations. Nevertheless, even taking into account the war, in 2023 Ukrainian legislation remained consistently favourable for all legal entities. However, in practice, CSOs are still not able to register on the Diia portal, and they also experience restrictions when using banking services. Unlike businesses, CSOs do not receive support when relocating. In this regard, the practice score in this area has deteriorated slightly from 5.2 in 2022 to 5.1 in 2023.

1) The Government provides preferential treatment to businesses compared to CSOs in public procurement processes.

According to the Law on Public Procurement,¹⁴ from 1 January 2022, participants in procurements are required to confirm their level of knowledge in the field of public procurement (testing is carried out online according to a programme developed by the Ministry of Economics and the service is free). CSOs who wish to receive funding from state or local budgets will generally not be able to pay for special training in tender procedures within the cost estimate of their projects. Therefore, the opportunity for CSOs to receive funds from state or local budgets is partially limited. The *DoZorro* Monitoring Portal¹⁵ is designed to oversee the transparency and quality of public procurement, including via a mechanism that avoids discriminatory rules when creating bidding documents. *DoZorro* provides an opportunity for public activists and potential bidders to give feedback to the contracting authority, to discuss and evaluate the conditions of specific procurements, and to prepare and submit a formal request to the controlling authorities. In practice, businesses have better access to participation in public procurement, but also a greater risk of additional tax audits.

¹⁴ Law 'On Public Procurement', 25.12.2015, No. 922-VIII, (in Ukrainian) <https://zakon.rada.gov.ua/laws/show/922-19#Text>.

¹⁵ *DoZorro* Portal, <https://dozorro.org/>.

Unlike CSOs, private entrepreneurs are able to register online via the *Diia* portal. The user can choose a general or simplified taxation system. Registration takes place automatically without the participation of the State Registrar. The procedure itself takes about ten minutes and is free of charge.¹⁶ Public associations and charitable organisations do not yet have this possibility.

The advantageous position of businesses in comparison to CSOs is also seen in banking services. Unlike CSOs, businesses are subject to financial monitoring with lower risk and face anti-money laundering and counter-terrorism financing (AML/CTF) measures and obstacles more rarely.

2) CSOs that have been forcibly displaced due to the war are in unequal conditions compared to businesses.

State and local self-government bodies (LSGBs) have introduced special programmes for business relocation due to the war.¹⁷ These provide preferential conditions to businesses for renting premises and introduce grants for the development of business activities. However, neither the legislation nor by-laws provide such additional benefits for relocated CSOs. This has become a significant problem in the provision of CSOs' work, which includes, for example, general activities of their offices, the organisation of international cooperation, storage of documents, humanitarian aid for distribution to those in need and assistance to the military.

Recommendations:

- To ensure that CSOs can register online via the government e-service *Diia* portal;
- To promote equal conditions for access to public funding for CSOs compared to businesses;
- The authorities should adopt public procurement procedures that take into consideration the specific situation of CSOs and organise explanatory training on the process of procurement; and
- The authorities should establish a special support programme for CSOs relocated due to the war.

¹⁶ *Diia* Portal, <https://diia.gov.ua/services/revestraciya-fop>.

¹⁷ Ministry of the Economy of Ukraine, 'Business Relocation Programme', <https://me.gov.ua/Documents/Detail?lang=uk-UA&id=3e766cf9-f3ca-4121-8679-e4853640a99a&title=ProgramaRelokatsiiPidprimstv>.

3.3 Access to Funding

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

Legislation: 5.0/7	Practice: 4.4/7
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Sources of funding for CSOs are diverse. Donations and funding from foreign donors were the main sources and, in general, the total volume of funds for CSOs increased due to the increased need to deal with the consequences of the war. In 2023, CSOs relating to veterans, persons with disabilities, and youth were once again able to rely on public funding, as this mechanism returned after being halted since the beginning of the war. At the same time, banks' control over CSOs' work remains strengthened, although a risk assessment approach is provided by experts from civil society. The score for practice in this area has slightly increased from 4.3 in 2022 to 4.4 in 2023 due to the emergence of new funding opportunities for CSOs (such as state support for CSOs relating to persons with disabilities, veterans, and youth). The score for legislation remained unchanged from 2022.

1) The state has ensured that CSOs and volunteers have access to diverse sources of funding.

In the state of emergency, both public and foreign sources of diverse funding increased and were available to both CSOs and volunteers. International technical assistance programmes and donations are currently one of the most common sources of funding for CSOs. For example, in 2023, the total amount of aid from the U.S. to CSOs in Ukraine is USD 64.74 million.¹⁸

In 2023, the amount of public funding available to CSOs increased as the authorities resumed distribution compared to 2022. The Ministry of Veterans, the Ministry of Social Policy, and the Ministry of Youth and Sports all resumed funding competitions for specialised CSOs. The Ukrainian Cultural Foundation also continued its programmes in 2023. The online platform *Vzaemo Diia* also resumed its work, which allowed for easier and more effective applications and access to funding by providing current contests for CSOs from both central and local authorities.¹⁹ Contests are

¹⁸ ForeignAssistance.gov, 'U.S. Foreign Assistance By Country: Ukraine', <https://www.foreignassistance.gov/cd/ukraine/2023/obligations/0>.

¹⁹ *Diia* Portal, 'Grant Competitions', (in Ukrainian) https://grants.vzaemo.diia.gov.ua/contests?fbclid=IwAR2Pwa50cjPEzqfAVriej1X_GD2U1L6JDNTtYqfQcMuTuZmbfD7jeKSmOgc.

designed for CSOs who work with persons with disabilities, veterans' CSOs, CSOs that help the army, and youth organisations. At the same time, the types of organisations that can receive state support still remain limited. Also, the state did not introduce mechanisms to support relocated CSOs and organisations affected by the war (in contrast to existing similar programmes for businesses).

Organisations and individual volunteers were also able to collect support from donations, which became one of the main funding sources for CSOs.²⁰ A popular method of collecting public donations was the collection of funds on private bank cards of volunteer individuals. The provisions of the Tax Code of Ukraine allow for the non-taxation of funds that are collected in the private accounts of individuals for the purpose of transferring them to funds for Ukraine's defence needs.

In addition, significant funds were collected by large charitable organisations. For example, by November 2023, the government-run international funding platform *United24* had raised USD 488,709,154 to help the victims of war, the military, and the development of education in the conditions of war and reconstruction.²¹

2) Enhanced banking control of CSOs continued and limited their access to funding.

The National Bank of Ukraine continued to place strong controls on Ukrainian banks and some digital fundraising sources remain restricted for use by CSOs in Ukraine (i.e., PayPal and cryptocurrencies). Also, general control by Ukrainian banks on CSOs' activities and financial operations remains strict. In 2023, cases of blocking of CSO accounts and restrictions on the transfer of funds to organisations due to their perceived status as 'high risk entities' in accordance with AML/CTF legislation continued. Ukrainian CSOs met with cases in which AML/CTF measures and issues with correspondent banks were given as a reason for blocking money transfers to them from abroad.

However, in 2023, systematic legislative changes (the Law 'On Payment Services'²² and the Draft Law 'On changes to the Tax Code of Ukraine on regulating the turnover of

²⁰ CSO Initiative Center to Support Social Action 'Ednannia', '[Ukrainian Civil Society in Conditions of War](#)' (in Ukrainian).

²¹ 'UNITED24 - The initiative of the President of Ukraine', u24.gov.ua.

²² From 1 August 2022, the Law of Ukraine 'On Payment Services' dated 30 June 2021, No. 1591-IX came into force (in Ukrainian), <https://zakon.rada.gov.ua/laws/show/1591-20#Text>.

virtual assets’)²³ are being introduced to establish a legal environment for the use of ‘virtual assets’ (including cryptocurrencies) and to introduce an Open Banking concept in Ukraine that will enable the full-scale use of PayPal and other digital payment systems.

In 2023, there was a ban²⁴ on the import of CSO services (for example, paying for the services of foreign experts). During martial law, the National Bank of Ukraine continued to implement measures aimed at maintaining the financial stability of the state and regulating the financial sector. In particular, Resolution No. 153 of the CMU of 24 February 2022 ‘On certain issues regarding ensuring the implementation of imports’ is in force in Ukraine, according to which there is an exhaustive list of services for which payment is allowed for CSOs. It is a list of services, works, intellectual property rights and other non-property rights intended for sale (by payment transfer), for the import operations of which the National Bank is recommended to ensure transfers. Accordingly, banks do not transfer funds to pay for imported services that are not included in the list. This has led to the presence of import difficulties for both CSOs and businesses.

Recommendations:

- The Government and responsible institutions should expand the range of organisations that can receive state funds on a competitive basis;
- Financial institutions, CSOs and the authorities should establish intersectoral dialogue regarding the reduction of banking risks for CSOs;
- CSOs, with the support of donors and state institutions, should develop various fundraising mechanisms, including CSOs’ business activities, the tax designation mechanism, social contracting, etc; and
- The Government should facilitate access to funding (for office rent, funds for the development of socially-useful programmes, etc.) for CSOs relocated from the active hostilities zones, temporarily-occupied territories, and areas destroyed by war.

²³ Draft Law on Amendments to the Tax Code of Ukraine and other legislative acts of Ukraine on regulating the turnover of virtual assets in Ukraine, 17 November 23 (in Ukrainian), <https://itd.rada.gov.ua/billInfo/Bills/Card/43232>.

²⁴ CMU Decree ‘About certain issues regarding ensuring the implementation of imports’, No. 153 dated 24 February 2022 (in Ukrainian), <https://zakon.rada.gov.ua/laws/show/153-2022-%D0%BF#Text>.

3.4 Freedom of Peaceful Assembly

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

Legislation: 4.9/7	Practice: 4.5/7
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In 2023, the situation in the area of freedom of peaceful assembly in Ukraine remained unchanged in general, and both in law and practice. The martial law regime imposes restrictions on the holding of peaceful assemblies. Despite the fact that the possibility of holding peaceful assemblies still exists, they are hardly held in practice due to security reasons. The total number of peaceful rallies and protests has increased slightly in 2023, the key protest issue being the transfer of budget funds to the Armed Forces of Ukraine.

1) Freedom of peaceful assembly has been guaranteed despite martial law.

Since 24 February 2022, the Decree of the President of Ukraine 'On the imposition of martial law' No. 64/2022²⁵ has allowed for restrictions on constitutional rights, including the right to freedom of peaceful assembly. Article 8 of the Law of Ukraine 'On the Legal Regime of Martial Law' grants the military command, together with military administrations, the right (independently, or with the involvement of the executive authorities, the Council of Ministers of the Autonomous Republic of Crimea, or LSGBs) to introduce and exercise limitations on the constitutional rights and freedoms of a person and a citizen, as well as the rights and legitimate interests of legal entities. Paragraph 8 of Article 8 provides for a ban on the holding of peaceful meetings, rallies, marches and demonstrations, and other mass events.

In 2023, in accordance with this norm, restrictions on the holding of peaceful assemblies were introduced in the Kyiv, Kirovohrad, Ternopil and Cherkasy regions by means of local-level provisions.²⁶

However, the right to peaceful assembly is still being practiced despite the difficult situation in the country. Russian missile attacks on the territory of Ukraine remain the

²⁵ Decree of the President of Ukraine, No. 64/2022 'On the imposition of martial law' (in Ukrainian), <https://www.president.gov.ua/documents/642022-41397>.

²⁶ Law in Conditions of War, 'Conducting peaceful meetings during wartime' (in Ukrainian), <https://law-in-war.org/provedennya-myrynyh-zibran-pid-chas-vijny/>.

main threat for protesters. A curfew also remains in place in Ukraine in 2023 (the only region without it is Zakarpattia oblast).

In 2023, in addition to peaceful rallies in support of the return of Ukrainian prisoners, there were mass rallies against corruption and for the fair distribution of funds, in particular for the redirection of public funds to the army.^{27,28} These protests took place all over Ukraine in both comparatively 'safe' and frontline regions.

Legislation regarding the protection of the right to peaceful assembly remained unchanged. At the same time, the state cannot guarantee its protection in view of the large-scale invasion of Russia. For instances, during assemblies in which there is an air alarm, it is necessary to immediately stop the mass event, notify the participants of the air alarm and ensure their evacuation. The number of people participating in an event should not exceed the estimated capacity of the nearest protective structure and such shelters should be located within direct reach of the venue of the event and agreed with LSGBs.²⁹

2) The state does not impose unnecessary burdens on organisers or participants in peaceful assemblies during martial law.

At the time of writing, there is no law that establishes the procedure for organising or holding peaceful assemblies. The relevant legislation does not contain provisions on the responsibility of organisers for the maintenance of public order or the actions of other persons during a peaceful assembly, nor does it completely specify the duties of law enforcement bodies, other state bodies, or LSGBs relating to their holding. There are no detailed instructions on the actions of law enforcement agencies in instances where violence occurs during an assembly. At the same time, Article 12 of the Law of Ukraine 'On the National Guard of Ukraine'³⁰ refers to the functions of the National Guard to

²⁷ *Suspilne Novyny*, 'Support for the army and public discussion of the budget: a rally gathered under the walls of the KMDA', 7 October 2023 (in Ukrainian), <https://suspilne.media/588981-pidtrimka-armii-i-gromadske-obgovorennia-budzetu-pid-stinami-kmda-zibravsa-miting/>.

²⁸ TSN. 'A rally was held in Odessa near the city hall: what the protesters demand from the authorities', 2 September 2023 (in Ukrainian), <https://tsn.ua/ukrayina/v-odesi-bilya-meriyi-vidbuvsya-miting-scho-protestuvalniki-vimagayut-vid-vladi-2402260.html>.

²⁹ Kyiv Oblast Council Decree, No. 145, 7 July 2022 (in Ukrainian), <https://koda.gov.ua/wp-content/uploads/2022/07/poryadok-provedennya-masovyh-zahodiv-na-terytorii%CC%88-kyi%CC%88vskoi%CC%88-oblas.pdf>; Order of the Kirovograd Military State Administration (in Ukrainian), <https://drive.google.com/file/d/1k8vFp8Na5wU-t6stFzXDToxrrPOgaLVb/view>.

³⁰ Law of Ukraine 'On the National Guard of Ukraine', 2014, No. 17, Article 594 (in Ukrainian), <https://zakon.rada.gov.ua/laws/show/876-18>.

participate in ensuring public safety and the protection of public order during peaceful assemblies. According to Article 34 of the Constitution of Ukraine, everybody has a right freely to collect, keep, use, and diffuse information orally, in writing or in another way of their own choosing. This general rule also applies to the distribution of information about peaceful assemblies.

Recommendations:

- The Ministry of Justice should, with the inclusion of civil society in the process, develop and adopt the Law of Ukraine 'On Freedom of Peaceful Assembly' (following the end of martial law); and
- Abolish regulations of local authorities that restrict freedom of peaceful assembly and violate the Constitution of Ukraine.

3.5 Right to Participation in Decision-Making

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

Legislation: **5.1/7**

Practice: **4.3/7**

The Russian Federation's full-scale war against Ukraine continues to have a negative effect on the interaction between CSOs and state authorities in the sphere of decision-making, both at the state and local levels. At the same time, there are positive efforts by the state, such as the draft laws that aim to strengthen public participation that have advanced to the second reading in 2023. On the other hand, the appearance of a draft law on lobbying, which may limit the advocacy work of CSOs, could have a negative effect on public participation. Some public registries have become more open, including registries of electronic declarations of the authorities, which allows for greater scrutiny of public control and provides more opportunities to obtain data about the authorities. Considering this, the scores in this area in both law and practice remain unchanged from in 2022.

1) Public participation in decision-making decreased during martial law.

The level of public participation in decision-making remained unchanged in 2023 and the problems in this area that appeared in 2022 were not completely resolved.

First, during 2023, access to official data has still been restricted. The state has been blocking the publishing of information regarding, among other things, draft legal acts or decisions, draft agendas, information about scheduled meetings of collective bodies, adopted decisions, various databases, contact or address information, and information about management bodies or officials. As a result, the public has difficulty accessing relevant documents and is prevented from being part of the decision-making process.

The second factor in changes in civil participation levels is the fact that some representatives of public organisations, as residents of territories that became occupied or where hostilities are taking place, relocated both within Ukraine and beyond its borders. Some of these representatives have changed the profile of their activities to volunteer assistance to ensure the humanitarian needs of IDPs and the armed forces or have ceased their operations completely. In particular, among representatives of LSGBs and communal institutions, relocation also took place in the February-March period which caused a decrease in their interaction with civil society.

The impact of martial law was reflected in the fact that representatives of the public environment had to partly change the profile of their activity in favour of responding to issues caused by the war. A partial limitation of the use of public participation tools is also evidenced, among which the problems of the impossibility of holding public meetings, limitations on public participation projects, the availability of public information, and the closing of meetings of collegial bodies prevail.

2) The Government developed special legislation on public participation in decision-making processes, and other legal initiatives at all levels.

In 2023, work and advocacy activities on promoting special legislation that guarantees the broad participation of people and civil society in decision-making processes continued at all levels.

First, the Draft Law 'On public consultations' that aims to provide necessary public consultations with legislative and executive bodies at the central and local levels continued to be under consideration in Parliament and was prepared for its second reading in 2023. The Draft Law has strong support from civil society and international partners but is progressing slowly.

Secondly, the Draft Law 'On people's power at the level of local self-government' was registered in Parliament to strengthen and approve public participation at two levels of interaction with the authorities: via participation in public hearings or public

consultations and via participation in advisory bodies of LSGBs.³¹ The Draft Law is being prepared for its second reading.

The Government also initiated other important draft laws which should support participation in decision-making. First, on 31 October 2023, the Ministry of Justice of Ukraine published the updated Draft Law 'On appeals'. Representatives of CSOs, including UCIRP,³² participated in discussion of the Draft Law and provided suggestions for its improvement, in particular: the expansion of applicants and the authorities to which citizens can appeal; the improvement of the application review procedure; specification of the procedure for the personal reception of citizens; and improvement of the procedure for consideration and implementation of petitions. Secondly, the Draft Law No. 6319 'On improving the order of organisation, activity and termination of self-organising bodies of the population' was accepted for revision in May 2023. The adoption of this Draft Law will contribute to the development and spread of the practice of creating self-organising bodies of the population as a form of participation for citizens in solving certain issues of local importance. The Draft Law is being prepared for its second reading in 2023.³³

Finally, CSOs also advocated for the adoption of Draft Law No. 6401 'On ensuring the transparency of local self-government'. This Draft Law is aimed at improving the implementation of the rights of citizens to participate in local self-government³⁴ and is also being prepared for its second reading.

3) Access to public information through the public registers became more affordable.

Since the start of the full-scale invasion of Ukraine by the Russian Federation on 24 February 2022, the sphere of access to public information has been severely reduced.

³¹ Draft Law on Amendments to the Law of Ukraine 'On Local Self-Government in Ukraine' and other legislative acts of Ukraine on people's power at the level of local self-government (in Ukrainian), <https://itd.rada.gov.ua/billInfo/Bills/Card/39362>.

³² Ministry of Justice, Development of the draft law 'On appeals', 25 September 2023 (in Ukrainian), <https://minjust.gov.ua/news/ministry/rozrobka-zakonoproektu-pro-zvernennya>.

³³ Draft Law on Amendments to the Law of Ukraine 'On Bodies of Self-Organisation of the Population' on Improving the Order of Organisation, Activity and Termination of the Body of Self-Organisation of the Population (in Ukrainian), <https://itd.rada.gov.ua/billInfo/Bills/Card/28346>.

³⁴ Draft Law on Amendments to the Law of Ukraine 'On Local Self-Government in Ukraine on Ensuring Transparency of Local Self-Government' (in Ukrainian), <https://itd.rada.gov.ua/billInfo/Bills/Card/38493>.

During the war, all usual democratic mechanisms have suffered and face unprecedented challenges. However, the situation improved in 2023.

On 20 September 2023, Parliament approved the Law 'On the Restoration of e-declaration' for officials which provides for the opening of officials' electronic declaration registers immediately, instead of after a period of one year as the Draft Law had envisaged.³⁵ The adoption of the Draft Law had received a public response and a number of CSOs made a collective appeal for the immediate return of e-declaration for officials. An e-petition was launched which currently has about 84,000 signatures.³⁶

According to the Decree of the CMU No. 1422 dated 16 December 2022 'On Amendments to Certain Resolutions of the Cabinet of Ministers of Ukraine in the Fields of Notary and State Registration', access to the Unified State Register is open for searching and creating extracts from it in electronic form. Information from the Unified State Register in electronic form is provided only on the condition that the identification of the person who wishes to receive the information is verified by means of electronic identification (electronic signature).³⁷

The State Tax Service also made it possible for taxpayers to receive information from public electronic registers on non-profit institutions and organisations, individual taxpayers, policyholders, and VAT payers.

During the period of martial law, access to public electronic registers is possible after passing electronic identification with the help of an electronic signature of any electronic service provider.³⁸

³⁵ *Ukrayins'ka Pravda*, 'The Council approved the amended law on e-declaration: the register will be opened immediately', 20 September 2023 (in Ukrainian), <https://www.pravda.com.ua/news/2023/09/20/7420649/>.

³⁶ Electronic petitions - Official online representation of the President of Ukraine, 'Veto draft law No. 9534 and return it to the parliament with the demand to open the register of property declarations of officials', 6 September 2023 (in Ukrainian), <https://petition.president.gov.ua/petition/204906>.

³⁷ Central Interregional Administration Ministry of Justice (Kyiv), 'Access to the unified state register of legal entities, individual entrepreneurs and public organizations is open', 27 September 2022 (in Ukrainian), <https://centraljust.gov.ua/news/direction/vidkrito-dostup-do-edinogo-derjavnogo-reestru-yuridichnih-osib-fizichnih-osib-pidpriemstv-ta-gromadskih-formuvan>.

³⁸ Main Directorate of DPS in the Zaporizhzhia Region, 'What e-registries are open to taxpayers during wartime?', 2 June 2023 (in Ukrainian), <https://zp.tax.gov.ua/media-ark/news-ark/681303.html>.

4) A new draft law on lobbying has a high risk of restricting CSOs' advocacy.

In September 2023, the National Agency on Corruption Prevention (NACP) initiated and promulgated the Draft Law of Ukraine 'On the Integrity of Lobbying in Ukraine'.³⁹ This caused concern from Ukrainian CSOs about the possible limitation of public participation in decision-making in case of its adoption. The proposed mechanisms could block the work of civil society institutions that are involved in the formation of state policy, the development of regulatory and legal acts, and advocacy for positive change. The specific negative aspects of the Draft Law for CSOs are: a lack of distinction between lobbying and advocacy; law-making activities, including CSOs, are subject to restrictions; excessive reporting for public organisations; and the definition of 'client' endangers the grant activities of donor organisations.

On 10 November 2023, there was a public discussion of the new Draft Laws 'On the Integrity of Lobbying and Advocacy' and 'On Amendments to the Code of Ukraine on Administrative Offences Regarding Violations of Legislation in the Field of Lobbying and Advocacy'.⁴⁰ The Draft Laws were supposed to take into account previous proposals from the civil society sector. The public discussion was attended by 46 CSO representatives and also by international partners and the media who also criticised the updated Draft Laws.

On 7 December 2023, the Government approved the Draft Law 'On Integrity in Lobbying and Advocacy'. The Draft Law contains requirements for CSOs to register in the Transparency Register and provide annual reporting about every advocacy campaign and fund on their websites. The Draft Law contains a risk of limiting the legal activities of civil society.

The NACP publicly stated that almost all civil society recommendations have been fully or partially taken into account and submitted to the Government for inclusion in the Draft Laws on lobbying. As a result, CSOs issued a Joint Statement requesting transparent, meaningful, and inclusive public consultations on the Draft Laws on lobbying and their resubmission for further improvements. CSOs also developed unified proposals and provided them to the Vice Prime Minister and to the European Commission.

³⁹ *Dzerkalo tyzhnya*, 'Lobbying in Ukraine: to be or not to be?', 6 October 2023 (in Ukrainian), <https://zn.ua/ukr/UKRAINE/lobijuvannja-v-ukrajini-to-be-or-not-to-be.html>.

⁴⁰ NACP, 'NACP held a public discussion of draft laws on lobbying', 10 November 2023 (in Ukrainian), <https://nazk.gov.ua/uk/novyny/nazk-provelo-gromadske-obgovorennja-zakonoproektiv-pro-lobiyuvannja/>.

Recommendations:

- Parliament should adopt the Law of Ukraine 'On Public Consultations'; the Draft Law No. 7283 on amendments to the Law of Ukraine 'On Local Self-Government in Ukraine' and other legislative acts of Ukraine regarding people's power at the level of local self-government;
- The Government should resume the practice of holding meetings of collegial power bodies in an open-door format, combining this, if necessary, with closed elements;
- The Government should implement legal regulation of various forms of public participation that have already been developed in Ukraine (for example, public expertise, supervisory boards, etc.);
- The authorities should comply with the Law of Ukraine 'On Access to Public Information', provide answers to requests and appeals and limit access to information *only* after using the three-fold test provided for in Part 2 of Article 6 of the Law;
- Strengthen information and cooperation with institutions of civil society, including volunteer communities, through the creation and operation of communication hubs and city information portals, as well as jointly conducting educational or explanatory events and joint information campaigns; and
- The NACP should exclude CSOs from the list of institutions regulated by the laws on lobbying.

3.6 Freedom of Expression

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

Legislation: **5.5/7**

Practice: **4.2/7**

The right to freedom of expression is protected by legislation that needs comprehensive changes. The war has caused significant damage to the media sphere and, as a result, to freedom of expression, especially at the local level. Although freedom of speech in Ukraine has improved according to the Freedom of Speech Index, there have been negative trends such as propaganda, self-censorship, and cyber-attacks on the media and CSOs.

The overall scores in the area of Freedom of Expression remain the same as in 2022.

1) Freedom of expression for everyone is under significant pressure as a result of the war.

Freedom of expression in Ukraine is guaranteed by the Constitution (Article 34), the European Convention on Human Rights (ECHR) (Article 10) and by national legislation. The right is equal for all natural persons regardless of citizenship, race, religion, sex, or other characteristics.

Despite the fact that the war has had some negative effects on freedom of speech, in 2023 the situation improved somewhat. In Reporters Without Borders' *Freedom of Speech Index* for 2023, Ukraine took 79th place out of 180 countries, compared to 106th place in 2022.⁴¹

At the same time, the general freedom of expression has decreased somewhat. However, in Freedom House's *Freedom in the World Index* for 2023, the freedom of expression rating deteriorated from 3 to 2 points. The reasons cited for the deterioration were that the authorities have prosecuted citizens on charges of collaboration with the Russian military, public denial of aggression by the Russian Federation, dissemination of Russian propaganda, or insulting the honour and dignity of Ukrainian servicemen. At the same time, strict censorship also operates in the

⁴¹ Reporters Without Borders. '2023 World Press Freedom Index', <https://rsf.org/en/country/ukraine>.

territories occupied by Russia, and education in the Russian language according to Russian curricula is imposed.⁴²

In 2023, freedom of expression was still under pressure as a result of physical and infrastructure challenges. Namely, starting from first days of the war, telecommunications infrastructure in Ukrainian cities and towns was damaged as a result of attacks.^{43,44} Russian forces continued to attack infrastructure during the autumn/winter of 2022-2023.⁴⁵ Additionally, the Ukrainian Government has derogated from its obligations under the ECHR and the International Covenant on Civil and Political Rights (ICCPR) in the period of martial law.⁴⁶ Reporting on developments in the war has also become increasingly dangerous. According to data from the Institute of Mass Information (IMI), the Russian Federation has committed more than 450 crimes⁴⁷ against journalists and the media, including the killing of eight journalists⁴⁸ as a result of targeted attacks, or as a result of rocket attacks on civilians and infrastructure. A further 34 journalists have been killed as military personnel.

There are still clear protections and guarantees in place against censorship, in spite of the conditions of martial law. There are clear and proportionate sanctions for defamation and libel⁴⁹ and the latter is not criminalised. The law still protects the confidentiality of whistle-blowers and journalists' sources of information.^{92,50} Nationwide broadcasters broadcast as part of the Single News marathon⁵¹ and the

⁴² Freedom House, Freedom in the World Index 2023, Ukraine, <https://freedomhouse.org/country/ukraine/freedom-world/2023>.

⁴³ *Ukrainska Pravda*. 'Russians attacked TV tower in Vynnytsya', 16 March 2022 (in Ukrainian), <https://www.pravda.com.ua/news/2022/03/16/7331823/>.

⁴⁴ IMI. 'Russians attacked TV tower by rockets in Kyiv region', <https://imi.org.ua/news/rosiiany-obstrilyaly-raketamy-televezhu-na-kyivshhyni-i44341>.

⁴⁵ Detector Media. 'Russians attacked Zaporizhzhya and shot a TV tower', 14 March 2022 (in Ukrainian), <https://detector.media/infospace/article/203051/2022-09-22-rosiiany-obstrilyaly-zaporizhzhya-ta-vluchyly-v-televezhu/>.

⁴⁶ ICCPR (1966), <https://treaties.un.org/doc/Publication/CN/2022/CN.65.2022-Eng.pdf>.

⁴⁷ IMI, 'For the 8 months of war Russia committed 437 crimes against media and journalists', 24 October 2022 (in Ukrainian), <https://imi.org.ua/monitorings/za-visim-misyatsiv-vijny-rosiya-skoyila-457-zlochyniv-proti-zhurnalistiv-ta-media-v-ukrayini-imi-i48551>.

⁴⁸ IMI, 'List of killed journalists', 3 June 2022 (in Ukrainian), <https://imi.org.ua/infographics/spysok-zagyblyh-zhurnalistiv-i45958>.

⁴⁹ The Civil Code of Ukraine, <https://zakon.rada.gov.ua/laws/show/435-15>.

⁵⁰ Law of Ukraine 'On the state media support, guarantees of professional activity and social protection of journalists', <https://zakon.rada.gov.ua/laws/show/540/97-%D0%B2%D1%80#Text>.

⁵¹ Detector Media. 'UA:PBC joined a marathon *United news*', 2 March 2022 (in Ukrainian), <https://stv.detector.media/suspilna-korporatsiya/read/7200/2022-03-02-suspilne-doluchylos-do-telemarafonu-iedyni-novyny/>; 'What the hell? How the parliamentary committee searched for those responsible for shutting down 5 Kanal, Priamyi and Espresso TV', 13 May 2022 (in Ukrainian), <https://detector.media/infospace/article/199186/2022-05-13-sho-ogo-yak-na-parlamentskomu-komiteti-shukaly-vynnykh-u-vidklyuchenni-5-kanalu-pryamogo-i-espresso-stenograma/>.

Public Broadcasting Company conducts a separate regional marathon prepared by several branches. It is notable that the channels *Espresso TV*, *Priamyi* and *5 Kanal* (which have continued to broadcast digitally on other platforms) were excluded from the marathons.⁵² The exclusion is assessed as political, in particular due to statements from the adviser to the President's Office, Mykhailo Podoliak,⁵³ that these TV channels were blocked due to the self-promotion of the ex-president of Ukraine, Petro Poroshenko.

In such conditions, civil society actively works on factchecking, media literacy and counterpropaganda. For example, Detector Media regularly conducts thematic research and programmes on refuting disinformation.⁵⁴

2) The state aims to fight Russian propaganda.

A significant negative effect on freedom of expression is the war-neutral position of major social media platforms. Aggressive rhetoric against Russia has been defined as a slur and has led to account deletion, downrating and bans for users who have posted content about Russian war crimes. The most controversial is the position of the social media platform TikTok,⁵⁵ which, based on the principle of geolocation, filters military content and does not make available content that shows the consequences of the actions of the Russian armed forces to users inside the Russian Federation.

During 2023, some changes in social media moderation occurred. Following a long negotiation between the Ministry of Digital Transformation and the tech company Meta (which owns Facebook and Instagram), the Azov Assault Brigade (a formation of the National Guard of Ukraine) was whitelisted.⁵⁶ However, the Brigade's founder Andrii Biletsky and its old symbols are still restricted. This has led to bans on Meta-

⁵² Detector Media. 'Espresso, Priamyi and 5 Kanal were switched off', 4 April 2022 (in Ukrainian), <https://detector.media/infospace/article/198111/2022-04-04-espresso-priamyi-ta-5-kanal-vymknuly-u-tyfri/>.

⁵³ Espresso TV. 'Podolyak explained the disconnection of Espresso, Priamyi and 5 Kanal by the "narcissism" of Poroshenko, whom he accused of "causing damages"', 30 May 2022 (in Ukrainian), <https://espresso.tv/podolyak-poyasniv-vidklyuchennya-espresso-priamogo-i-5-kanalu-nartsisizmom-poroshenka-yakogo-zvinuvativ-u-zavdannii-zbitkiv>.

⁵⁴ Detector Media. 'DM research' (in Ukrainian), <https://detector.media/tag/2348/>.

⁵⁵ NRK, 'TikTok doesn't show the war in Ukraine to Russian users', https://www.nrk.no/osloogviken/xl/tiktok-doesn_t-show-the-war-in-ukraine-to-russian-users-1.15921522.

⁵⁶ Ukrinform, 'Meta promised not to block content about the Azov regiment and to unblock hundreds of accounts of the Ukrainian military', 19 January 2023 (in Ukrainian), <https://www.ukrinform.ua/rubric-technology/3655641-meta-poobicala-ne-blokuвати-kontent-pro-polk-azov-fedorov.html>.

owned platforms even for media that had simply not paid attention to the images they used in their news items and editorials. At the same time, however, activists and CSOs have been able to spread information about the Azov Assault Brigade (for example, in the context of calling for prisoner exchanges with Russia) more openly.

Since late March 2023, systematic disinformation attacks have occurred on Facebook and Instagram. These have been combined with phishing aimed at hacking the websites of media, public persons, various state authorities, CSOs and activists. Since 2021, the Center for Countering Disinformation, a working body of the National Security and Defense Council of Ukraine which tries to combat disinformation, has been operating on a permanent basis. At the same time, the effectiveness of its work is questionable.

Recommendations:

- Ensure proper and effective investigation of attacks on journalists and public activists, both in the context of crimes in the Russian Federation and at the national level;
- Ensure the right of access to public information in accordance with the standards of national legislation and the Tromsø Convention⁵⁷ in the context of completeness and availability; and
- Coordinate efforts with international partners to counter disinformation and bias in online social networks.

3.7 Right to Privacy

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

Legislation: 4.9/7	Practice: 3.2/7
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In martial law conditions, legislation provides for the state's retreat from the obligation to guarantee the right to privacy. The law allows for the inspection of individuals' documents and the inspection of personal items, including vehicles, luggage and cargo, office premises and citizens' homes, the contents of telephone archives and other correspondence. In 2023, all trends in maintaining CSOs' privacy were preserved. Searches of volunteers or CSOs

⁵⁷ Council of Europe Convention on Access to Official Documents.

continued, but the general number of such activities from law enforcement remained unchanged.

The situation remained unchanged in 2023 compared to 2022 and, therefore, the scores in legislation and practice remain the same.

1) Right to privacy is restricted under martial law, yet discussion on data protection continues.

Since 24 February 2022, the Decree of the President of Ukraine 'On the introduction of martial law' No. 64/2022⁵⁸ allowed restrictions on constitutional rights, including the right to privacy. In particular, the right under Article 31 of the Constitution of Ukraine to the secrecy of correspondence, telephone conversations, telegraph, and other correspondence is restricted. The restriction of this right necessitates a waiver of Ukraine's obligations under Articles 19 and 20 of the ICCPR and Article 10 of the ECHR.⁵⁹

At the legislative level, reporting requirements for CSOs protect the privacy of their members, donors, board members and employees and the confidentiality of their personal assets.

In Freedom House's *Freedom on the Net* report for 2023, Ukrainian internet users' right to privacy was assessed as 3 out of 6.⁶⁰ The Security Service of Ukraine (SBU) and the police can initiate criminal investigations and use wiretapping devices on communication technologies, but existing legislation, such as the Law 'On Operative Investigative Activity', does not specify the circumstances that justify these measures or set limits on the timeframe or scope of their implementation.

On 14 June 2023, an expert discussion took place of the Council of Europe's opinion on the Draft Law 'On Personal Data Protection' No. 8153 as of 25 October 2022, which is being prepared for its first reading in Parliament. The discussion brought together more than 100 participants, including members of parliament, government representatives, NGOs, international and national experts, and businesses. The experts who took part in the discussion provided recommendations on finalising the Draft Law in order to clarify the possibilities for intervention from the authorised authorities in

⁵⁸ Decree of the President of Ukraine No. 64/2022 'About the introduction of martial law in Ukraine', <https://www.president.gov.ua/documents/642022-41397>.

⁵⁹ United Nations, Ukraine notification under Article 4(3) on 01.03.2022, <https://treaties.un.org/doc/Publication/CN/2022/CN.65.2022-Eng.pdf>.

⁶⁰ Freedom House, 'Freedom on the Net' 2023 report, <https://freedomhouse.org/country/ukraine/freedom-net/2023#C>.

the privacy of electronic communications, as well as on better coordination of this Law with existing legislation. The Draft Law itself is still under review and finalisation by a specialised parliamentary committee.

2) CSOs' privacy under pressure during the state of emergency.

CSOs have an adequate level of immunity from criminal prosecution. In particular, any access to a CSO's office space may be exercised solely based on a court order and within the framework of criminal proceedings, while providing adequate safeguards against abuse. The legal framework and definition of the procedures for conducting the search are enshrined in the Code of Criminal Procedure⁶¹ and in the Law 'On Search Operations'.⁶² The SBU has conducted searches in public organisations based on various suspicions. Representatives of CSOs that were deemed to be dubious were searched, in particular to expose embezzlement of humanitarian aid and volunteer funds.⁶³

Recommendations:

- Avoid the adoption of legislative acts that significantly expand the right of law enforcement and security agencies to invade people's private lives;
- Avoid the adoption of legislative acts that aim to introduce additional reporting for foreign-funded CSOs and their members; and
- Create an effective mechanism for personal data protection.

⁶¹ Criminal Procedure Code of Ukraine (2013), No. 9-10, No. 11-12, No. 13, Article 88, <https://zakon.rada.gov.ua/laws/show/4651-17#Text>.

⁶² Law of Ukraine 'On Operational and Investigative Activities', 1992, No. 22, Article 303, <https://zakon.rada.gov.ua/laws/show/2135-12#Text>.

⁶³ *Suspilne Novyny*, 'Arsenal of military weapons in an apartment and cars. In Transcarpathia, the SBU searched the head of a public organisation', 30 October 2023 (in Ukrainian), <https://suspilne.media/605487-arsenal-bojovoi-zbroi-u-kvartiri-ta-masinah-na-zakarpatti-sbu-proveli-obsuki-v-ocilnika-gromadskoi-organizacii/>.

3.8 State Duty to Protect

Overall score per area: **3.7/7**

Legislation: **4.0/7**

Practice: **3.4/7**

Similar to in the previous reporting period, the main danger for CSO activists and public figures remains the Russian Federation, which purposefully attacks, persecutes and tortures representatives of Ukrainian human rights defenders, journalists, volunteers and others who are considered to threaten the occupying powers. Security provision in the territory of Ukraine by the state was also not complete due to Russian missile and cyber-attacks. There were also restrictions on the part of banks in relation to CSOs, namely the blocking of accounts and transfers from abroad.

In view of this, the score for legislation in this area remained unchanged from 2022 and the score for practice slightly deteriorated in comparison with 2022, from 3.5 to 3.4.

1) CSO activists suffered as a result of aggression from the Russian Federation.

As of the beginning of September 2023, the ZMINA Human Rights Center recorded 67 civilians murdered and 14 civilians wounded due to the aggression of the Russian Federation. Of these, 43 are public activists, 16 are journalists, and 22 are volunteers. Killings and injuries occurred as a result of Russian missile strikes, shrapnel and bullet injuries. In addition, during 2023, ZMINA recorded the following numbers of instances of illegal actions by third parties against public activists, journalists, human rights defenders and volunteers in the territory under the control of the Government of Ukraine: physical attacks (5); destruction or damage to property (9); violation of privacy and cyber-attacks (1); legal prosecutions (4); and threats (10).

In March 2023, the Vostok SOS organisation recorded 66 cases of human rights violations in the occupied territories of Ukraine committed by the Russian occupying powers (including torture, violation of the rights to liberty and security, violation of the right to free speech).⁶⁴ To compare, in February 2023, this number reached 94 cases,

⁶⁴ Vostok SOS, 'Overview of Human Rights Violations Committed by the Russian Federation in the Occupied Territories of Ukraine in March 2023 (Based On Open Sources)', 19 June 2023, <https://vostok->

while in January 2023 it was 118.⁶⁵ Additionally, a new wave of persecution of Crimean Tatars in the occupied Crimean Peninsula has taken place throughout 2023,⁶⁶ with many people from this community facing attempts to mobilise them into the Russian armed forces.⁶⁷ Ukrainian activists are also often illegally detained in occupied Crimea and beyond.⁶⁸ This has been confirmed by the UN Office of the High Commissioner for Human Rights (OHCHR)⁶⁹ in its relevant reports and has been high on the agenda of international human rights organisations.⁷⁰

The Ukrainian Government has proceeded with the investigation of war crimes committed by the Russian Federation. According to the Prosecutor General, there is information about the commission of almost 95,000 war crimes,⁷¹ yet the Prosecutor still underlines that collection of evidence and establishing links with the suspects is challenging. The Head of the Council of Judges has stressed that more than 1,463 Russians have already been given a verdict as of May 2023, although many more cases remain at the investigation and trial stages.⁷²

In March 2022, Parliament added Article 201-2 to the Criminal Code which relates to the sale of humanitarian aid for profit. In April 2022, the pretrial investigation bodies of Ukraine - the police, the SBU and the Economic Security Bureau of Ukraine (BEB) - began to prosecute volunteers under the Article. As a result, the Ukrainian CSO ZMINA, together with partner public organisations and volunteers, started a media and

sos.org/en/overview-of-human-rights-violations-committed-by-the-russian-federation-in-the-occupied-territories-of-ukraine-in-march-2023-based-on-open-sources/.

⁶⁵ Ibid.

⁶⁶ Crimea.Realities, 'Russia has been killing Crimean Tatar activists for 10 years' - Tasheva recalled the persecution of Crimeans at the 'Crimean Platform' summit' (in Ukrainian), <https://ua.krymr.com/a/news-krym-tasheva-sammit-krymska-platforma-peresliduvannia-krymskykh-tatar/32651911.html>.

⁶⁷ Army.Inform, 'The Ministry of Foreign Affairs reacted to the ongoing persecution of Crimean Tatars in occupied Crimea' (in Ukrainian), <https://armyinform.com.ua/2023/08/28/mzs-vidreaguvalo-na-chergovi-peresliduvannia-krymskykh-tatar-v-okupovanomu-krymu/>.

⁶⁸ Ukrinform, 'Kidnapped activist Yevhen Melnychuk is being held in the Simferopol pre-trial detention centre - human rights activists' (in Ukrainian), <https://www.ukrinform.ua/rubric-crimea/3716872-u-simferopolskomu-sizo-utrimuut-vikradenogo-aktivista-evgena-melnicuka-pravozahisniki.html>.

⁶⁹ UN HR, Report on the Human Rights Situation in Ukraine (1 August 2022 – 31 January 2023), 24 March 2023, <https://www.ohchr.org/sites/default/files/documents/countries/ukraine/2023/23-03-24-Ukraine-35th-periodic-report-ENG.pdf>.

⁷⁰ Ukrainian Helsinki Human Rights Union, 'Protection of activists' (in Ukrainian), <https://www.helsinki.org.ua/activities/advokatsiya/zahyst-hromadskyh-aktyvistiv/>.

⁷¹ Interfax, 'Ukrainian courts found more than 50 Russians guilty of war crimes', 15 July 2023, (in Ukrainian), <https://interfax.com.ua/news/general/923119.html>.

⁷² *Suspilne Novyny*, 'More than 4,000 war crimes cases have been submitted to Ukrainian courts - the head of the Council of Judges', 4 May 2023 (in Ukrainian), <https://suspilne.media/466295-do-ukrainskih-sudiv-nadijslo-ponad-4-tisaci-sprav-sodo-voennih-zlociniv-golova-radi-suddiv/>.

advocacy campaign for the protection of volunteers. This included the organising of several meetings with the leadership of the General Prosecutor's Office, as well as with volunteers and their lawyers. As of September 2023, the General Prosecutor's Office closed two criminal proceedings under Article 201-2 against four volunteers. However, there are still ten criminal proceedings in progress under this Article, to which ZMINA is providing legal support and monitoring. However, the working group on the decriminalisation or amendment of Article 201-2 of the Criminal Code has not been active since October 2022.

Both representatives of Ukrainian civil society and Freedom House's *Freedom in the World* Index for 2023 confirm that activists complain about the absence of effective investigation into crimes perpetrated against them.⁷³ Also, as has also been the case in previous reporting years, lawyers report numerous violations of activists' rights during criminal proceedings by investigative bodies. Finally, there were initiatives underway to annul the possibility of students over 30 years of age being deferred from military service during their time of study, which is a concerning tendency for Ukrainian academic researchers.⁷⁴ An initiative on the protection of persons with disabilities in the employment sphere was also highly criticised by the relevant CSOs due to the poor formulation of the bill.⁷⁵

2) Measures used to fight extremism, terrorism, money laundering or corruption continued to restrict CSOs.

In June 2023, the Ministry of Finance of Ukraine began the development of a methodology for determining the UBO of a legal entity. For this purpose, the Ministry of Finance, by Order No. 192 dated 14 April 2023, created a working group, which also included experts from public organisations. The methodology, in accordance with the Law 'On Prevention and Combating the Legalisation (Laundering) of Criminal Proceeds, Terrorist Financing and Financing of the Proliferation of Weapons of Mass Destruction', must determine which legal entities have a UBO and who should be

⁷³ Freedom House, 'Freedom in the World' Index 2023, Ukraine, <https://freedomhouse.org/country/ukraine/freedom-world/2023>.

⁷⁴ *Hromadske Radio*, 'The Council registered a draft law on cancelling the deferment for students older than 30 years', 4 September 2023 (in Ukrainian), <https://hromadske.radio/news/2023/09/04/u-radi-zareiestruvaly-zakonoproiekt-pro-skasuvannia-vidstrochky-dlia-studentiv-pislia-30-rokiv>.

⁷⁵ Ukrainian Radio, 'Elimination of all types of rehabilitation, except medical. What does the 'European integration' draft law 5344-d hide?', 4 April 2023, (in Ukrainian), <http://www.nrcu.gov.ua/news.html?newsID=101188>.

considered as such according to the defined criteria. The draft methodology was provided to public organisations for familiarisation. Experts from public organisations have criticised most of the methodology's provisions, including those related to the procedure for identifying public organisations and charitable funds of the UBO, as well as the prompt notification of this to the state. At the same time, some representatives of the public sector are still fundamentally opposed to the definition of the UBO of heads and members of public organisations and charitable foundations and are in favour of excluding such entities from the Law.

3) Blocking of CSO bank accounts.

Following mass and public reports by CSOs about cases of bank account blocking by domestic and non-resident banks, as well as blocking of bank transactions from abroad, which was caused by the operation of AML/CTF legislation, this topic became popular in the media for some time. It was also one of the main topics at meetings of representatives of civil society with government officials, in particular with the leadership of the National Bank of Ukraine (NBU). According to AML/CTF provisions, Ukrainian CSOs are considered as having 'high risk' status for the banks. Since the beginning of 2023, complaints by CSOs about the blocking of their accounts by banks, as well as banks' requests for additional information about the CSO, in particular, about its founders, have significantly decreased. There are still reported cases, however. The decrease in instances was preceded by public discussions between CSOs and the NBU (and other banks) and advocacy work in the framework of the Ukraine Civil Society Sectoral Support Activity.

Recommendations:

- The Government should abolish the requirement for CSOs to provide information on their UBOs/controllers, as CSOs do not generally have percentage-based controlling interests;
- The state should ensure a proper investigation of war crimes by the Russian Federation, including those against journalists and public activists;
- Law enforcement should stop the practice of prosecuting volunteers and benefactors under Article 201-2 of the Criminal Code of Ukraine;
- Make changes to the legislation that will allow volunteers to quickly import cars from abroad for the needs of military personnel without paying customs fees; and
- Stop the practice of provocation of a crime by investigative bodies, as well as other violations of the rights of volunteers during pre-trial investigations.

3.9 State Support

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

Legislation: 4.7/7	Practice: 4.0/7
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During 2023, positive changes in the area of State Support took place, and the overall score in this area increased from 4.3 in 2022 to 4.4 in 2023, including increases in the scores for both law and practice. State tenders to support projects undertaken by youth CSOs, veterans' CSOs and organisations working with people with disabilities have begun to return. At the same time, state institutions plan to provide grants with mixed funds, namely state and donor grants. Certain positive developments have also taken place in the tax environment for CSOs, volunteers, and providers of charitable assistance. However, some state initiatives, such as Resolution No. 953, somewhat complicated the procedure for importing humanitarian aid.

1) The distribution of state funding for CSOs has resumed.

More diverse state funding mechanisms from various state bodies at both the national and local levels are available in 2023 compared to in 2022. While in 2022 all planned contests were terminated according to Order No. 30 of 10 August 2022,⁷⁶ in 2023, state institutions resumed the distribution of state funding for CSOs, and also ensured additional funds through the Ukrainian Veterans Fund and the newly-created Ukrainian Youth Fund.

In 2023, public associations that provide social services to people with disabilities were able to receive state support in the amount of up to UAH 500,000 (approximately 12,500 EUR).⁷⁷ The Fund for the Social Protection of Persons with Disabilities resumed funding contests for CSOs and accepted proposals until 7 September 2023.

⁷⁶ Order No. 30 of 10 August 2022 (in Ukrainian), <https://www.ispf.gov.ua/storage/app/sites/1/uploaded-files/%D0%9D%D0%B0%D0%BA%D0%B0%D0%B7%2030%20%D0%9F%D1%80%D0%B8%D0%BF%D0%B8%D0%BD%D0%B5%D0%BD%D0%BD%D1%8F%20%D0%BA%D0%BE%D0%BD%D0%BA%D1%83%D1%80%D1%81%D1%83220810.pdf>.

⁷⁷ Ministry of Social Policy of Ukraine, 'Public organisations that take care of people with disabilities can receive state support in the amount of up to half a million hryvnias', 28 August 2023 (in Ukrainian), <https://www.msp.gov.ua/news/23032.html?fbclid=IwAR2FKzz5c6KoCOTRuDrIMXEihhBrxuJzmE-V3yp5KzezoKL2fP9mlwQWM40>.

In November 2023, the Ukrainian Veterans Foundation (UVF) of the Ministry of Veterans Affairs, together with ISAR Ednannia, launched a new contest to support projects of CSOs that help veterans successfully adapt to civilian life. The amount of financial support that the winners of the competition can receive will be up to UAH 2.5 million (approximately 62,500 EUR).⁷⁸ The fund will have a combined source of funding (state and donor funding) and can cover CSOs' administrative costs. Earlier, in May 2023, the UVF also conducted funding contests for veterans' CSOs (the 'Varto+GO' contest) in the amount of up to UAH 1 million (approximately 25,000 EUR).⁷⁹ Eight CSOs were supported. The same contest took place in 2022 and eight CSOs also were supported,⁸⁰ but as the overall funding opportunities for veterans' CSOs have increased in 2023, the current situation can be seen as an improvement.

In the grant season of 2023, the Ukrainian Cultural Foundation implemented six grant programmes to support artists and cultural figures: three new programmes and three programmes from the 2022 grant season, the competition for which was not completed due to the war.⁸¹ Grant programmes for 2024 have already been announced.⁸²

In addition, in February 2023, the Ukrainian Youth Fund was established by Resolution No. 182 of the CMU.⁸³ It will provide grants and financial support to people, youth NGOs, and individual entrepreneurs to implement their own initiatives, ideas and projects in Ukraine. The fully-fledged work of the fund should begin at the end of 2023. At the same time, the Ministry of Youth and Sports conducted grant competitions for youth NGOs with the opportunity to apply for up to UAH 500,000 (approximately 12,500 EUR) in 2023.⁸⁴

⁷⁸ Ministry of Veterans Affairs of Ukraine, 'The Ukrainian Veterans Fund of the Ministry of Veterans Affairs presented a new competition #WORTH: Unity', 31 October 2023 (in Ukrainian), <https://mva.gov.ua/ua/news/ukrayinskij-veteranskij-fond-minveteraniv-prezentuvav-novij-konkurs-varto-yednannya>.

⁷⁹ UVF, 'Varto+GO' (in Ukrainian), <https://veteranfund.com.ua/contests/varto-go2023/>.

⁸⁰ UVF, 'Varto+GO' (in Ukrainian), https://veteranfund.com.ua/contests/varto_go/.

⁸¹ Ukrainian Cultural Foundation, https://ucf.in.ua/storage/docs/15092023/_%D0%B7%D0%B0%20%D0%86%D0%86%20%D0%BA%D0%B2%D0%B0%D1%80%D1%82%D0%B0%D0%BB%2015.09_bb8bf439b99ce719792b2feeb7f2e157389b9cb9.pdf.

⁸² Ukrainian Cultural Foundation, 'UCF presented grant programmes for 2024', 2 November 2023 (in Ukrainian), https://ucf.in.ua/news/hrantovyi_sezon2024.

⁸³ CMU Decree dated 28 February 2023, No. 182, <https://www.kmu.gov.ua/npas/deiaki-pytannia-ukrainskoho-molodizhnogo-fondu-i280223-182>.

⁸⁴ Vzaemo Diia, 'Competition to identify projects developed by youth and children's public organisations, for the implementation of which financial support is provided in 2023' (in Ukrainian), <https://grants.vzaemo.diia.gov.ua/contests/136e8480-8519-11ed-a9f3-dbe93dfb2289>.

2) CSOs and donors enjoyed a more favourable tax environment in 2023.

A lot of initiatives to improve the tax environment for CSOs and donors took place in 2023. Two of these improvements are related to the Tax Code of Ukraine. First, the Government developed Draft Law No. 9177 'On Amendments to Section XX "Transitional Provisions" of the Tax Code on Stimulation of Charitable Assistance to Non-Profit Organisations'.⁸⁵ The Draft Law addresses the problem of insufficient tax incentives for corporate income taxpayers to make charitable donations to non-profit organisations under martial law and allows businesses to donate ten per cent of their taxable income to charity. Also, Parliament adopted Law No. 3219-IX 'On Amendments to the Tax Code' in June 2023.⁸⁶ The Law provides for a tax exemption for individual benefactors who have collected charitable donations to their own bank accounts, provided they are registered in the Register of Volunteers.

The state also adopted benefits in relation to humanitarian assistance. In accordance with the Law of Ukraine No. 2906-IX,⁸⁷ for the period of martial law in Ukraine, but for no longer than until 1 January 2024, the importation of unmanned aerial vehicles and their components into Ukraine is exempt from VAT. This allows CSOs to import relevant goods tax-free, not only as humanitarian assistance, but also to purchase goods from abroad and import them as commercial goods. Also, in accordance with the Law of Ukraine No. 3050-IX dated 11 April 2023, from the date of the introduction of martial law in Ukraine until its termination or cancellation, the providers of charitable assistance independently determine the beneficiaries of such assistance among natural persons until the CMU's determination of the list of territories where hostilities are (or were) conducted or which are (or were) temporarily-occupied by the Russian Federation. The Law allows individuals not to file a tax return if the assistance was received in 2022 and 2023. This facilitates the work of volunteers and charitable organisations by not imposing additional reporting.

However, in 2023, there was an unfavourable development when Parliament cancelled the exemption of taxpayers from liability for failure to pay taxes and fees, keep records and submit tax reports. The abolition applied not only to non-profit organisations, but also to businesses. Previously, during martial law and within six months of its

⁸⁵ Draft Law No. 9177 of 03.04.2023 'On Amendments to Section XX "Transitional Provisions" of the Tax Code on Stimulation of Charitable Assistance to Non-Profit Organisations', <https://itd.rada.gov.ua/billInfo/Bills/Card/41686>.

⁸⁶ Law No. 3219-IX 'On Amendments to the Tax Code', <https://itd.rada.gov.ua/billInfo/Bills/Card/41268>.

⁸⁷ Law of Ukraine No. 2906-IX, <https://zakon.rada.gov.ua/laws/show/2906-20#Text>.

termination, taxpayers were released from liability for non-fulfilment of such duties. At the same time, taxpayers are not required to prove the impossibility of submitting reports, paying taxes, or registering tax invoices, so in practice, no taxpayer is required to fulfil its obligations regardless of the possibility of doing so. The Law provided for cases in which the taxpayer did not fulfil its tax obligations from 24 February 2022, and later switched to the special third group of the single tax with a rate of two per cent. In 2023, however, this kind of exemption was cancelled by Parliament.

3) Developments in the area of volunteering and related legislation.

The Law 'On Volunteering Activities' remains the main act that regulates volunteering activities in Ukraine and it was supplemented in 2022 with provisions that had a positive impact on volunteering in Ukraine. In particular, the current legislation provides for the following additional areas of volunteering in wartime conditions: assistance to central and local bodies of executive power, LSGBs, enterprises, institutions and organisations, associations of citizens; and providing volunteer assistance related to the protection and rescue of animals. Also, the new Law provides an opportunity for the development and implementation of national targeted programmes to support the development of volunteering and other measures aimed at supporting volunteering in Ukraine. The Law also stipulates that volunteer assistance can be provided online using the internet and other telecommunication networks.

It is noteworthy that, in September 2023, Parliament registered the Draft Law of Ukraine No. 10040 'On Amendments to the Tax Code of Ukraine regarding the support of volunteer activities under martial law'. The Law will exempt the expenses incurred by public associations and charitable organisations (and other non-profit organisations) through the provision of life and health insurance to volunteers from personal income tax and also from the military fee for the duration of the volunteer activities.

The Ministry of Social Policy, together with the Ministry of Digital Transformation, launched the humanitarian platform *eDopomoga* (eHelp), aimed at establishing a direct connection between volunteers, CSOs and people in need and processing requests for specific assistance by those benefactors who are ready to provide it. By October 2023, more than 5,375 volunteers had been involved in providing charitable assistance within the framework of the platform.

Resolution No. 953 of the CMU entered into force on 1 December 2023, according to which new rules for recording and distributing humanitarian aid came into effect. When importing humanitarian goods, until 1 April 2024 volunteers can use the Automated Humanitarian Aid Registration System when declaring, but the old mechanism for allowing humanitarian aid is also available until the end of martial law. The new rules met with an ambiguous reaction among volunteers because they are required to undertake additional and complex reporting for the distribution of humanitarian aid and this somewhat complicates the procedure.

Recommendations:

- Expand the range of CSOs receiving state support for project funding and also expand the areas in which CSOs have access to funding (in addition to people with disabilities, veterans and youth);
- Administrative costs for the implementation of projects must be provided in all public tenders;
- Develop a clear common understanding of the terms 'social entrepreneurship' and 'social enterprise' and ensure a supportive environment for CSOs engaging in these areas; and
- Improve the legal environment for engaging volunteers by Ukrainian CSOs, particularly in the areas of taxation and guarantees.

3.10 State-CSO Cooperation

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

Legislation: 5.7/7	Practice: 4.8/7
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In 2023, there was an intensification of cooperation between CSOs and the state. Work on the Action Plan for the implementation of the National Strategy for Promoting Civil Society Development was updated, and, accordingly, the advocacy work of CSOs on the implementation of the provisions of the Plan developed. Also, CSOs continued to work on the issue of recovery. For example, they participated in the Ukraine Recovery Conference in

London and as part of the 'RISE UA' coalition. Therefore, despite the impact of the war, scores in this area increased in both legislation and practice in 2023 in comparison with the previous year. The overall score in this area increased from 5.2 in 2022 to 5.3 in 2023.

1) Implementation of the National Strategy for Promoting Civil Society Development continued in 2023.

Work continued on implementing the National Strategy for Promoting Civil Society Development in Ukraine for 2021-2026. In July 2022, the CMU initiated a public discussion of the Draft Order 'On the Approval of the Action Plan for 2022-2024 regarding the implementation of the National Strategy for Promoting Civil Society Development in Ukraine for 2021-2026'.⁸⁸ The Action Plan was expected to provide for measures to ensure effective procedures of public participation in policy-shaping at all levels, to further the institutional development of CSOs, to stimulate the participation of civil society institutions in socio-economic development and to develop favourable conditions for intersectoral cooperation. On 14 February 2023, the CMU approved the Action Plan up to 2024.⁸⁹ In addition, corresponding with the recommendations of the National Strategy, during the current reporting period, the state, in cooperation with civil society, created a number of legislative initiatives that improved the legal field of activities of volunteers⁹⁰ and reduced taxes for CSOs.⁹¹

As part of the implementation of the National Strategy, the Civil Society Week, initiated by the Ministry of Culture and Information Policy of Ukraine, was held for the first time

⁸⁸ On the approval of the Action Plan for 2022-2024 regarding the implementation of the National Strategy for Promoting the Development of Civil Society in Ukraine for 2021-2026. CMU information dd. 07.07.2022, https://www.kmu.gov.ua/news/zaprosuiemo-do-obhovorennia-proektu-rozporiadzhennia-kabinetu-ministriv-ukrainy-pro-zatverdzhennia-planu-zakhodiv-na-2022-2024-roky-shchodo-realizatsii-natsionalnoi-strategii-spriannia-rozvytku-hromadianskoho-suspilstva-v-ukraini-na-2021-2026-roky?fbclid=IwAR3JPVT_TqAwqY11yX00J44kYH_65ZXyPL-n1K2KheVudawLJohxctROrK4&utm_source=sendinblue&utm_campaign=%20%2018072022&utm_medium=email [last visited 25.10.2023].

⁸⁹ CMU, 'The plan of measures until 2024 regarding the implementation of the National strategy for promoting the development of civil society in Ukraine for 2021-2026 has been approved' (in Ukrainian), <https://www.kmu.gov.ua/news/zatverdzheno-plan-zakhodiv-do-2024-roku-shchodo-realizatsii-natsionalnoi-strategii-spriannia-rozvytku-hromadianskoho-suspilstva-v-ukraini-na-2021-2026-roky>.

⁹⁰ Law of Ukraine 'On the introduction of changes to the Tax Code of Ukraine regarding the promotion of the development of volunteer activities and the activities of non-profit institutions and organisations in the conditions of armed aggression of the Russian Federation against Ukraine', 15.08.2022, No. 2520-IX (in Ukrainian), <https://zakon.rada.gov.ua/laws/show/2520-20#Text> [last visited 25.10.2023]; Law of Ukraine 'On Amendments to the Law of Ukraine 'On Volunteering' Regarding Support of Volunteering', 15.08.2022, No. 2519-IX (in Ukrainian), <https://zakon.rada.gov.ua/laws/show/2519-20#Text> [last visited 25.10.2023].

⁹¹ Law of Ukraine 'On amendments to the Tax Code of Ukraine and other legislative acts of Ukraine regarding the peculiarities of taxation and reporting during the period of martial law', 03.03.2022, No. 2118-IX (in Ukrainian), <https://zakon.rada.gov.ua/laws/show/2118-20#Text> [last visited 25.10.2023].

in 2023. The thematic week was organised in the period from 11-17 September 2023.⁹² The purpose of the initiative was to draw attention to the work of civil society and also to encourage citizens to participate in the formation and implementation of state policy. The event's partners included the Secretariat of the CMU, central executive bodies, regional military administrations, UCIPR, CEDEM, ISAR Ednannia, and the UN Development Programme in Ukraine.

2) The participation of civil society in the recovery process is important, yet insufficiently ensured by the state.

The issue of recovery as a priority activity in Ukraine's post-war planning has involved CSOs. In June 2023, representatives of CSOs and high-level government representatives (including the Deputy Prime Minister for Restoration of Ukraine and Minister for Communities, Territories and Infrastructure Development of Ukraine) took part in the Ukraine Recovery Conference (previously known as the Ukraine Reform Conference) in London. The Conference also featured a separate side panel which was devoted to the involvement of CSOs in Ukraine's recovery process.⁹³

In July 2022, Ukrainian and international public organisations, initiatives, state institutions and experts formed the 'RISE UA' coalition. The RISE coalition formulated the basic principles and approaches that will be employed in Ukraine's recovery and reconstruction: the rule of law, transparency, accountability, and environmental sustainability. The RISE coalition now comprises 30 CSOs.⁹⁴ During 2023, the coalition was engaged in international and national advocacy, for example, it advocated for the opening of the Unified State Register, against the Government's introduction of changes to the State Anti-Corruption Programme for 2023-2025; and actively cooperated with the Agency for Restoration.⁹⁵

In the second half of 2023, on the initiative of the Government and the National Council for the Recovery of Ukraine from the War, establishing an additional agency for

⁹² Army Inform, 'Civil Society Week will be held in Ukraine for the first time', 6 September 2023 (in Ukrainian), <https://armyinform.com.ua/2023/09/06/v-ukrayini-vpershe-projde-tyzhden-gromadyanskogo-suspilstva/>.

⁹³ Chatham House, Ukraine Recovery Conference 2023 (in Ukrainian), https://ednannia.ua/images/Ukraine_Recovery_Conference_2023_Brochure_UKR_09062023.pdf.

⁹⁴ RISE UA, 'Members of the coalition', <https://www.rise.org.ua/members-ua>.

⁹⁵ RISE UA Blog, <https://www.rise.org.ua/blog>.

recovery involving CSOs and experts in working groups was discussed,⁹⁶ but as yet there are no outcomes.

Recommendations:

- The Government should involve CSOs in the process of post-war recovery and in the activities of the National Council for the Recovery of Ukraine from the War (or other relevant bodies should they be established); and
- The Government should continue the implementation of the Action Plan for the National Strategy for Promoting Civil Society Development in Ukraine for 2021-2026, especially in the field of the development of participation mechanisms and laws for volunteers, taking into account the war and the features of martial law.

3.11 Digital Rights

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

Legislation: **5.1/7**

Practice: **4.4/7**

The full-scale invasion of Ukraine by Russia has significantly undermined internet freedom in Ukraine and impacted the Government's ability to further develop and fulfil the guarantees for digital rights. Most of the challenges to the enjoyment of digital rights continue to be caused by Russian aggression and the restrictive security measures as a result of martial law. All recommendations in this area remain unchanged from 2022.

Given that the general picture in the area of Digital Rights remained the same as in 2022, the scores for legislation and practice in 2023 remain unchanged from those for 2022.

1) Digital rights continue to be restricted as a result of the Russia's full-scale invasion of Ukraine.

Following the full-scale Russian aggression, the Ukrainian Government has officially derogated from its obligations under the ECHR and the ICCPR.⁹⁷ In particular, the

⁹⁶ Radio Svoboda. 'An Agency for recovery: advantages and risks with the new state body', 04.08.2022 (in Ukrainian), <https://www.radiosvoboda.org/a/ahentsiya-z-vidnovlennya-ukrayiny-perevahy-ryzyky/31973608.html> [last visited 25.10.2023].

⁹⁷ ICCPR derogation, <https://treaties.un.org/doc/Publication/CN/2022/CN.65.2022-Eng.pdf> [last visited 25.11.2022].

derogation provides the state with the power to impose restrictions on the right to privacy and freedom of expression that temporarily do not constitute a violation of international treaties. In response to the military invasion, the Ukrainian Government enforced martial law⁹⁸ which sets restrictions on the exercise of certain digital rights, including freedom of expression and privacy. However, no cases of actual limitation of digital rights that were not based on the principles of legality, legitimacy, proportionality, and necessity, were reported.

In response to the Russian aggression, a number of laws⁹⁹ were passed in Ukraine that introduce restrictions on the dissemination of Russian symbols,¹⁰⁰ criminalise information support for and endorsement of armed aggression,¹⁰¹ and restrict the dissemination of information on the movements of the Ukrainian military and its equipment.¹⁰²

Since 24 February 2022, over 300 Russian and pro-Russian websites that could threaten national security or promote aggression against Ukraine have been added to the list of blocked resources.¹⁰³

The Ukrainian Parliament has failed to adopt the revised version of the Law 'On Data Protection' aimed at bringing national legislation on personal data protection in line with EU standards introduced by the General Data Protection Regulation (GDPR). However, another Draft Law on Personal Data Protection No. 8153¹⁰⁴ was again registered in Parliament in October 2022. The Draft Laws differed in their approaches to solving the same issues (e.g. the processing of personal data on the internet). In 2023, the Draft Law did not move forward.

⁹⁸ Presidential Decree 'On martial law', 24.02.2022 No. 64/2022 (in Ukrainian), <https://zakon.rada.gov.ua/laws/show/64/2022#Text> [last visited 25.12.2022].

⁹⁹ Digital Security Lab, 'Freedom of speech on the Internet: how does Ukraine respond to Russian aggression-2022?' (in Ukrainian), <https://dslua.org/publications/svoboda-slova-v-interneti-iak-ukraina-vidpovidaie-na-rosiysku-ahresiiu-2022/>.

¹⁰⁰ Law of Ukraine No. 2265-IX, <https://zakon.rada.gov.ua/laws/show/2265-20#Text>.

¹⁰¹ Law of Ukraine No. 2110-IX, <https://zakon.rada.gov.ua/laws/show/2110-20#Text>.

¹⁰² Law of Ukraine No. 2160-IX, <https://zakon.rada.gov.ua/laws/show/2160-20#Text>.

¹⁰³ Digital Security Lab, 'Wartime blocking: ISPs must restrict access to 191 sites' (in Ukrainian), <https://dslua.org/publications/blokuvannia-voiennoho-chasu-provaydery-maiut-obmezhyty-dostup-do-191-saytu/>.

¹⁰⁴ Draft Law 'On personal data protection', <https://itd.rada.gov.ua/billInfo/Bills/Card/40707>.

2) Threats to the cybersecurity of CSOs.

Since the beginning of 2023, Ukraine has seen an unprecedented escalation in cyberattacks against civil society by Russian actors, including targeted phishing with malware¹⁰⁵ and attacks directed against the websites of independent media organisations.¹⁰⁶ In July and August 2023 alone, 13 such incidents were recorded.¹⁰⁷ There is no evidence that state institutions in Ukraine have used technologies to silence, surveil or harass CSOs, human rights defenders, or activists for their online activities. At the same time, the IMI reported that in the twenty months from the start of the full-scale Russian invasion until October 2023, Russia has committed 540 crimes against journalists and the media in Ukraine, including 58 cybercrimes.¹⁰⁸

The Parliament of Ukraine adopted amendments to the Criminal Code of Ukraine¹⁰⁹ to meet the requirements of the Convention on Cybercrime aimed at improving the responsiveness of law enforcement agencies to criminal offences and the detention rate of persons who have committed crimes. This includes during the period of martial law with the aim of preserving national security by expanding the rights of law enforcement officers to access electronic devices, as well as a large amount of personal data of citizens.

Ukrainian legislation provides for three mechanisms for blocking internet resources, but these do not contain sufficient protections for digital rights (e.g. for national security, freedom of access to information can be limited). The three mechanisms are:

- the obligation of telecommunications providers to restrict the access of their subscribers to the resources based on a court decision;
- a person who organises, conducts, or provides access to gambling through a website without a relevant license must within three days restrict access to it

¹⁰⁵ Digital Security Lab, 'Report: Digital Security in the Ukrainian Civil Society Sector during the War', <https://dslua.org/publications/report-digital-security-ukr/>.

¹⁰⁶ IMI, '457 crimes against journalists and media in Ukraine committed by Russia in eight months of the war – IMI', <https://imi.org.ua/en/monitorings/457-crimes-against-journalists-and-media-in-ukraine-committed-by-russia-in-eight-months-of-the-war-i48559>.

¹⁰⁷ Digital Security Lab, 'Report: Digital incidents in the Ukrainian public sector from July to August 2023', 30 August 2023, <https://dslua.org/publications/report-july-august-2023/>.

¹⁰⁸ IMI, '540 crimes against journalists and media committed by Russia in the year and 8 months of the big war', 24 October 2023, <https://imi.org.ua/en/monitorings/540-crimes-against-journalists-and-media-committed-by-by-russia-in-the-year-and-8-months-of-the-big-i56314>.

¹⁰⁹ 'On the introduction of amendments to the Criminal Code of Ukraine to increase the effectiveness of the fight against cybercrime in the conditions of martial law', <https://zakon.rada.gov.ua/laws/show/2149-20#n2>.

at the request of the Commission for the Regulation of Gambling and Lotteries; and

- The hosting provider must restrict access to a website that contains copyright infringements.

3) The use of AI remains unregulated.

The war has intensified the widespread use of technology using artificial intelligence (AI), which requires detailed analysis and evaluation of the impact on the privacy of individuals. Many government initiatives involving frequent processing of personal data have also emerged. In many cases, these are related to the expansion of the functionality of government applications (e.g., applying for compensation for destroyed property through *Diia* which requires sharing of personal data and photos of the damage).¹¹⁰ At the same time, the use of AI is still not regulated by law. The only official document that contains ideas for its regulation is the Concept for the Development of Artificial Intelligence in Ukraine,¹¹¹ developed by the Ministry of Digital Transformation. However, the concept lacks provisions related to the protection of human rights. During the war, such AI tools as *Clearview* (used for assisting in the reunification of families, the refutation of disinformation posts on social networks related to the war, increased security at checkpoints, the identification of those killed in combat, and the detection of Russian spies) and *Palantir* (a system for data analysis using AI) were used by the Ukrainian army and other military bodies.

From 1-2 November 2023, the first ever international summit on the safety of AI, the AI Safety Summit, took place in the United Kingdom. During the summit, Ukraine signed the 'Bletchley Declaration', a document whose main purpose is to intensify international cooperation in the field of AI security research.¹¹² The declaration mentions civil society as a partner to other stakeholders with an important role to play in ensuring the safety of AI.

¹¹⁰ Centre for Democracy and Rule of Law, 'Recommendations from NGOs regarding restrictions on human rights during wartime', <https://cedem.org.ua/en/library/restrictions-human-rights-wartime/>.

¹¹¹ CMU Decree 'On approval of the Concept of development of artificial intelligence in Ukraine' (in Ukrainian), <https://zakon.rada.gov.ua/laws/show/1556-2020-%D1%80#Text>.

¹¹² CEDEM, 'Ukraine signed the first ever international declaration on the safe use of artificial intelligence', 3 November 2023 (in Ukrainian), <https://cedem.org.ua/news/deklaratsiya-shtuchnyi-intelekt/>.

Recommendations:

- The Government should revise the legislation on sanctions and introduce clear, transparent, and predictable criteria for applying sanctions to the information resources of the Russian aggressor state;
- Implement European standards into national legislation with regard to personal data protection and media regulation to provide safety in the digital space; and
- The Government should introduce special legislation on the use of AI and upgrade current legislation on digital rights in accordance with international standards and with due regard for human rights.

IV. KEY PRIORITIES

After analysing the legal and practical environment for CSOs operating in Ukraine in 2023, both positive changes and some gaps were identified, which are reflected in the following key recommendations:

1. The state should avoid the emergence of legislation restricting the work of CSOs;
2. Parliament should adopt the Law of Ukraine 'On Public Consultations'; the Draft Law No. 7283 on amendments to the Law of Ukraine 'On Local Self-Government in Ukraine' and other legislative acts of Ukraine regarding people's power at the level of local self-government;
3. The Government should introduce special legislation on the use of AI and upgrade current legislation on digital rights in accordance with international standards and with due regard for human rights;
4. Improve the legal environment for engaging volunteers by Ukrainian CSOs, particularly in the areas of taxation and guarantees;
5. The Government should continue the implementation of the Action Plan for the National Strategy for Promoting Civil Society Development in Ukraine for 2021-2026, especially in the field of development of participation mechanisms and laws for volunteers, taking into account the war and the features of martial law;
6. The Government should involve CSOs in the process of post-war recovery and in the activities of the National Council for the Recovery of Ukraine from the War (or other relevant bodies should they be established);
7. CSOs, with the support of donors and state institutions, should develop various fundraising mechanisms, including for CSOs' business activities, the tax designation mechanism, social contracting, etc;
8. The Government and the responsible institutions should expand the range of organisations that can receive state funds on a competitive basis;
9. Financial institutions, CSOs and the relevant authorities should establish an intersectoral dialogue regarding the reduction of banking risks for CSOs; and
10. Ensure proper and effective investigation of attacks on journalists and public

activists, both in the context of crimes in the Russian Federation and at the national level.

V. METHODOLOGY

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

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

The country partners, together with other CSOs, part of the CSO Meter Hub, conducted the monitoring process and drafted the narrative country report. They also established Advisory Boards in each country, composed of expert representatives of key local stakeholders. The members of the 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 – December 2023.

Monitoring process

The process has included data collection and analysis of the collected information. The main type of research used in this report was desk research. UCIPR regularly throughout the year works on diverse projects with CSOs and activists concerning legal analysis of the environment and gathers information. UCIPR is a member of the consortium-implementer of the Ukraine Civil Society Sectoral Support Activity in which it is responsible for advocating for and ensuring an enabling environment for CSOs. UCIPR conducts regular monitoring of legislation, provides legal advice and participates in the preparation of draft laws. This experience was used in the preparation of this report. Data collection was complicated by the closure of some state

registers and the necessity to make requests to state authorities regarding data which were freely available prior to 24 February 2022.

Important developments for civil society that occurred between the period of data collection and finalisation of the report were included in the executive summary of the report. These were, however, not considered when assigning scores.

Scoring process

The country researchers and the IO Advisory Board members in Ukraine 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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