



# EASTERN PARTNERSHIP INDEX

## 2017

CHARTING PROGRESS IN EUROPEAN  
INTEGRATION, DEMOCRATIC REFORMS,  
AND SUSTAINABLE DEVELOPMENT



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Eastern Partnership Civil Society Forum

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# THE EASTERN PARTNERSHIP: TIME FOR A DECADE OF RULE OF LAW AND INDEPENDENT JUSTICE

## TOP CHALLENGES FOR 2019

- The governments of the Eastern Partnership countries must focus on the professionalisation and independence of the justice system, and the EU should make financial support to the respective governments strictly conditional on prompt and comprehensive reforms of the judiciary and prosecution service, and genuinely independent anti-corruption agencies. The freezing of EU assistance to the government of Moldova should continue until a government emerges that shows a commitment to tackling this challenge with integrity.
- Where financial assistance to government is frozen, support to civil society should continue, indeed be strengthened, in the EU's new multi-annual financial framework. There is an urgent need for strong EU support for civil society and independent media in all six countries, including Belarus and Azerbaijan, where the media are least free.
- The EU and NATO should build on the decisions of the Warsaw NATO 2016 Summit to restore confidence in Europe's security architecture. The EU can also take a lead on easing tensions and launching dialogue to resolve the territorial disputes in the region and the conflict in eastern Ukraine.
- The democratic progress made in Georgia and Ukraine is far from complete, and the energy of the Velvet Revolution in Armenia must be sustained. The EU and international donors can empower civil society to not only monitor the implementation of policies, including the spending of EU financial support, but to become an active partner in shaping EU programme assistance priorities. EU support is also essential to enable civil society to undertake comprehensive, country-wide monitoring of elections to ensure that there is no democratic slippage.

## NEW LEVEL OF ENGAGEMENT NEEDED TO TACKLE DEMOCRATIC SLIPPAGE AND JUSTICE REFORM

As the Eastern Partnership approaches its tenth anniversary in May 2019, it is worth some critical reflection on the achievements to date. When the EU signed Association Agreements with Georgia, Moldova and Ukraine in 2014, there was a sense that these three Eastern Partnership countries would have a fast track to closer integration with the EU, while the other three would have a much looser relationship without a Deep and Comprehensive Free Trade Area agreement.

Indeed, by the end of 2017, the DCFTA agreements were being implemented in Georgia, Moldova and Ukraine, and the three

AA signatory countries had all secured visa-free short-term travel to the Schengen countries. However, their aspirations of closer alignment with the EU are far from assured.

The “strengthened differentiation in bilateral relations” between the EU and the six EaP countries, as billed in the joint declaration of the Eastern Partnership Summit in Brussels on 24 November 2017,<sup>1</sup> will need to address the fact that all six countries suffer from chronic problems when it comes to the rule of law, the independence of the judiciary, and the fight against corruption. At the multilateral level, some steps have been taken to develop indicators for assessing performance in justice reform, but the process lacks the necessary momentum.

<sup>1</sup> *Eastern Partnership Summit - Joint Declaration*, European Council, 24 November 2017, <http://www.consilium.europa.eu/en/press/press-releases/2017/11/24/easternpartnership-summit-joint-declaration/>

The whole region also suffers from a plethora of security challenges – at the levels of territorial integrity, economy, energy dependence and social cohesion.

Despite impressive reforms in Ukraine, including important local government reforms, the country heads into 2019, facing both parliamentary and presidential elections, in a highly insecure environment where divisions in society are reflected in the low-level support for the main presidential contenders.

Not only does Crimea remain illegally annexed by Russia, a large part of Eastern Ukraine remains in Russia-backed secessionist hands, and Russia has crippled Ukraine's access to the Azov Sea, dealing a cruel economic blow to the ports of Mariupol and Berdyansk.

Moldova has a government that professes to be a safeguard for EU-oriented forces against pro-Russia political parties, but is in fact a corrupt ruling elite that has no qualms about using the judiciary and prosecution service to remove from office political opponents, and holding the economy in a corrupt stranglehold.

Although Georgia, like Moldova, has a billionaire who controls the ruling party without holding public office, the recent constitutional reforms give greater power to parliament and introduce a fully proportional voting system that should reduce the power of deep-pocketed political parties who hold sway in majoritarian single-member constituency contests. Yet the reforms will not apply in the 2020 parliamentary elections, taking effect only from 2024. The opposition and civil society have called for them to take effect in 2020.

## A PLURALITY OF ACTORS IN ARMENIA NEED SUPPORT AND ADVICE

On the other hand, Armenia not only signed a Comprehensive and Enhanced Partnership Agreement (CEPA) with the EU, resurrecting much of the non-trade parts of the Association Agreement previously negotiated, albeit not signed and implemented, but has subsequently undergone a political earthquake.

First, mass protests brought to power the protest leader Nikol Pashinyan, in May 2018, then the change of power was confirmed in parliamentary elections in December 2018 that saw the former ruling party fail to gain a single

seat in the new parliament. While the huge majority secured by Pashinyan's My Step party is a clear confirmation of the mood for change, the new government will be ruling without an effective opposition to hold it to account.

This is a time when Armenia will need a lot of support and advice, but international donors should learn from the experience of previous revolutions, such as the emergence of Mikheil Saakashvili in Georgia, and should ensure that it supports civil society, engages with other political forces, and fosters pluralism in both politics and the media. Pashinyan needs advice, support and expertise, but also an effective constructive opposition – which will include extraparliamentary voices given the huge majority his party holds in the parliament.

In 2017 Belarus introduced visa-free short-term travel to Belarus for EU citizens, but progress remained slow in the talks on agreeing partnership priorities and a visa facilitation and readmission agreement with the EU. The harassment of independent media and some civil society actors continues, including frequent short-term detention. Some reforms are underway to open dialogue between the authorities and citizens, but there is as yet no political will to really open up policymaking, while democratic processes are entirely absent, both in terms of fair and free elections, and parliamentary oversight of the presidential administration.

In Azerbaijan, the number of political prisoners and prisoners of conscience remains alarmingly high, and the pressure on civil society and independent media continues at such a level that neither can function, with NGOs cut off from international funding, independent news websites closed down, and bloggers behind bars. The court system is subservient to political instructions, leaving citizens without the right to a fair trial. The situation has been exacerbated by the disbarment of lawyers by the government, in particular those that had been willing to take on human rights cases.<sup>2</sup>

## EAP INDEX REGISTERS NOT ONLY ADOPTION OF REFORMS, BUT ALSO IMPLEMENTATION

The Eastern Partnership Index, since its first edition in 2011, has charted the division

<sup>2</sup> *Azerbaijan Moves to Drastically Cut Number of Lawyers*, Mike Runey, Eurasianet, 7 November 2017, <https://eurasianet.org/azerbaijan-moves-to-drastically-cut-number-of-lawyers>

between two groups of countries in their efforts towards European integration, with Armenia straddling the two groups. As it has evolved, the Index has been adapted to measure implementation in more depth, alongside formal adoption of norms and legislation.

In the Index 2017, the slippage of Moldova shows that Armenia's approximation in some areas is on a par, or even above, the level of the three AA countries.

Ukraine is the clear frontrunner in the **Approximation** dimension of the Index 2017, followed in close succession by Armenia, Moldova and Georgia. However, Ukraine trails behind Moldova and Georgia which share the lead in **Linkage**.

Azerbaijan is in fifth place in both **Approximation** and **Linkage**, only slightly ahead of worst placed Belarus. On the other hand, given their economic advantages, Azerbaijan and Belarus perform better in meeting the Sustainable Development Goals, especially indicators concerning poverty and health, where Moldova and Georgia lag behind.

## INSISTENCE ON JUSTICE REFORMS MUST BE ACCOMPANIED BY STRICT CONDITIONALITY OF FINANCIAL SUPPORT

All six EaP countries face challenges in addressing corruption and political cronyism, not least the "state capture" that has become entrenched in Moldova. The lack of progress in forging an independent judiciary and prosecution service has also stood in the way of effective anti-corruption reforms in Ukraine. The urgency of effective anti-corruption agencies, backed up by independent prosecutors and judges of the highest integrity, must be embraced by the EU as the top priority in the region.

The absence of comprehensive justice reform undermines democratic development and entrenches corrupt elites (there is nothing pro-EU about the abuse of power for the private gain of political leaders, whether they are in office or steering those in office from behind the scenes).

But, more than that, the population becomes disillusioned. People lose faith in the political process and are repeatedly frustrated in their efforts to set up honest businesses, to voice their opinions free from harassment and

persecution, and to exercise their rights as citizens to engage in public life.

Until the respective governments embark on credible, comprehensive reforms that will inspire citizens with confidence that they will experience a fair trial in the justice system, where bribes are not extracted for acquittals, and where the rule of law is not applied arbitrarily to serve the interests of powerful groups, the EU should apply strict conditionality and freeze all financial support to those governments.

The professionalisation and independence of the justice system, comprehensive reforms of the judiciary and prosecution service, and genuinely independent anti-corruption agencies cannot be delayed any further.

Hard calculations need to be made to assess the results from financial support to the governments to date, and whether the money has been spent effectively in a way that has generated sustainable reforms. If they have not, such support should become strictly conditional on the prompt and comprehensive implementation of anti-corruption reforms and an overhaul of the justice system.

Hard choices must be made, but in the end strict conditionality will be necessary, and it is unacceptable for both EU taxpayers and for the citizens of the EaP countries if EU financial support goes to governments where the state has been "captured" by corrupt business groups.

Different models of support might include long-term engagement of experts who have directly turned around justice systems in other countries rather than secondment of experts to review the existing or planned legislation and processes.

The EU and other donors need to recognise that such reforms need to be hard-hitting. Where there is political resistance from entrenched interests, the money would be better spent on supporting democratic actors working to hold the authorities to account rather than supporting reforms where the political will is lacking.

Although the governments of Belarus and Azerbaijan do not explicitly pursue close integration with the EU, where closer co-operation and support is sought, the EU should exert leverage for improvements in human rights and engagement with civil society.

## EU CAN LEAD ON OPENING UP DIALOGUE TO DE-ESCALATE REGIONAL TENSIONS

Russia's interference, including the information war on which it has embarked, continues to undermine the EU in its promotion of sustainable democratic reforms. The EU has shown sustained solidarity with Ukraine by agreeing and applying sanctions against Russia over the military aggression against Ukraine. That solidarity has been an important driver in the level of support among the Ukrainian population for EU-oriented reforms,<sup>3</sup> and the EU must take note that its commitment to values and to support against external aggression is crucial to the work and motivations of civil society, and the aspirations of the wider public, in the region.

In 2019 the EU needs to engage with the EaP countries to address the acute security challenges facing the countries of the EaP region, not least Ukraine, where the occupation of territory has been compounded by the threat to its economy, not least through Russia's blockade of the Azov Sea, where major Ukrainian trading ports are located.

The EU, while not a security alliance, nor a military power, can also take a lead in diplomatic engagement with a view to easing tensions and opening dialogue throughout the EaP region to resolve the territorial disputes and conflicts in the region, support the EaP countries in protecting their territory against Russian aggression, and in countering Kremlin disinformation.

The conflict in Ukraine needs a comprehensive approach, including the stabilisation of economic and democratic development in Ukraine, and a pre-emptive approach to guarding Ukraine against external economic risks, primarily from Russia. The EU can help in these security areas, just as it can in Georgia to equip the government to resist the Russian military's constant extensions of the territory of the secessionist-held Tskhinvali (South Ossetia) region further into Georgia-controlled territory. Diplomatic efforts should be intensified to enable the EU Monitoring

<sup>3</sup> According to an August 2018 public opinion poll in Ukraine, the majority of respondents (55%) perceived the EU's influence on Ukraine as positive, while 29% said the influence was negative. *Public Opinion on the Impact of Other Countries on Ukraine*, Ilko Kucheriv Democratic Initiatives Foundation, 29 October 2018, <https://dif.org.ua/en/article/public-opinion-on-the-impact-of-other-countries-on-ukraine>

Mission in Georgia to be given access to Abkhazia and South Ossetia.<sup>4</sup>

The increase in contacts between the governments of Armenia and Azerbaijan, including a communications hotline that has been accompanied by a reduction of the number of incidents around Nagorno-Karabakh, are an important development. While this progress emerged after the emergence of the new government in Yerevan, the democratic changes in Armenia do not mean a solution to the conflict with Azerbaijan will be found quickly.

The resolution of the competing rights and demands of the Armenian and Azerbaijani communities that both lived in the autonomous territory before the war of 1988-1994 will require an ambitious, sustained mediation effort to open up dialogue and facilitate reconciliation. However, the scope for a de-escalation of tensions is now a realistic objective, and the window of opportunity should be embraced.

The EU is well placed to take a lead on launching such a dialogue, with a view to at least de-escalation of tensions in the case of Nagorno-Karabakh and the other territorial disputes in the region. With France as one of the co-chairs of the OSCE Minsk Group (the others are Russia and the US), the EU already has a place at the table, and should maximise its diplomatic engagement to build on the recently improved communications between the two countries.

The EU should strengthen its presence in the region and improve its in-country intelligence-gathering so that it is better prepared when both internal and external shocks materialise. Better staffed delegations should be combined with more resources and mandates for EU Special Representatives, such as the Special Representative for the South Caucasus and the crisis in Georgia.

The EU Global Strategy<sup>5</sup> needs to be complemented by clear objectives and a Common Security and Defence Policy (CSDP) strategy that intensifies co-operation with partners in the EaP countries and builds adequately resourced early warning systems. One welcome development was the launch in Helsinki, Finland, in September 2017 of the

<sup>4</sup> In violation of the 2008 ceasefire agreement, Russia and the self-proclaimed secessionist authorities have denied EUMM's access to territories under separatist control.

<sup>5</sup> *Shared Vision, Common Action: A Stronger Europe. A Global Strategy for the European Union's Foreign And Security Policy*, European Union, June 2016: [https://europa.eu/globalstrategy/sites/globalstrategy/files/about/eugs\\_review\\_web\\_4.pdf](https://europa.eu/globalstrategy/sites/globalstrategy/files/about/eugs_review_web_4.pdf)



European Centre of Excellence for Countering Hybrid Threats, and it is important that the Centre focuses strongly on the EaP region.<sup>6</sup>

## CIVIL SOCIETY NEEDS AN EFFECTIVE ENABLING ENVIRONMENT TO HOLD GOVERNMENTS TO ACCOUNT

In the Deliverables for 2020 for the Eastern Partnership, the EU reaffirmed its commitment to a strong role for civil society in holding governments accountable, while recognising that a sustained, long-term commitment is essential.<sup>7</sup> Moreover, the Brussels summit declaration in November 2017 agreed that civil society is a “driver of reform and promoter of accountability”.

Just as it did with Armenia in negotiating the CEPA, the EU is right to continue to pursue closer relations with Belarus and Azerbaijan, so long as the EU maintains strong, unwavering support for, and promotion of human rights, freedom of expression and assembly, and intensified engagement with civil society. Similarly, the fits and starts of democratic development in Ukraine and Moldova must be borne in mind when engaging with the new government in Armenia.

The level of support to local independent election monitors should be scaled up to enable country-wide monitoring of elections in all the EaP countries, including parallel counts and the latest software to tally the counts as quickly as possible on election night.

Civil society should equip itself with top-level expertise to monitor the implementation of government policies, including the spending of EU financial support, so that they serve the much needed independent watchdog function to hold public authorities to account, and also come with the policy know-how to engage more fully as partners in shaping the policymaking agenda and priorities, and the overall thrust for EU programmatic assistance.

Likewise, it is essential that Azerbaijan’s civil society be embraced by international partners and donors, and that innovative ways are used to ensure they can operate and participate in

international projects and initiatives, so that they know that their bravery and commitment is valued outside their country, and so that their connections and skills are enhanced so that they can play a full part as and when any political opening emerges in Baku. The EU should recognise categorically that to date the government in Baku has resisted the calls from international organisations, including the Open Government Partnership, to provide an enabling environment for NGOs.

The Eastern Partnership Civil Society Forum is engaged with the financial assistance of the EU and other donors to ensure that support reaches civil society in the EaP countries – through helping them improve advocacy and outreach in their respective countries and to key decision-makers in Brussels, for instance in the diverse EaP multilateral thematic panels and platforms.

As the EU moves into a new multi-annual financial framework, it will be essential to keep a financial instrument – the European Neighbourhood Instrument 2.0 – that is tailored to the specificities of the EaP countries and the EU’s obligations towards the countries. The embrace of civil society’s expertise and its outreach to citizens should also be reflected in a sustained civil society facility to fund civil society’s engagement in shaping the policy agenda and in opening up government to the citizens as a whole.

Time and again, we have seen the strength of civil society in working for democratic reforms, from the momentum behind the Revolution of Dignity in Ukraine to the protests against corruption and state capture in Moldova and against the abuse of the justice system in Georgia. The bravery of civil society in Belarus and Azerbaijan, despite the restrictions inhibiting NGOs from legal registration and the constant threat of detention and imprisonment, compels us to work to support them in their fight for fundamental freedoms. In 2018, the Velvet Revolution was driven by civil society, and many civil society activists are now in government and parliament.

Support must be given to those who show integrity and professionalism in their engagement in further democratic development, human rights, and independent justice, whether in government or in civil society. Innovative and hard-hitting methods will often be needed, including strict conditionality of financial support, and the creation of platforms and channels for dialogue between civil society and governments is an essential component of a sustainable reform strategy.

6 <https://www.hybridcoe.fi/>

7 *EU Revises the 20 Key Deliverables for 2020 for the Eastern Partnership*, European External Action Service, 13 June 2017, [https://eeas.europa.eu/headquarters/headquartershomepage/28117/eu-revises-20-key-deliverables-2020-eastern-partnership\\_en](https://eeas.europa.eu/headquarters/headquartershomepage/28117/eu-revises-20-key-deliverables-2020-eastern-partnership_en)

# WHAT IS THE EASTERN PARTNERSHIP INDEX?

The *Eastern Partnership Index 2017* charts the progress made by the six Eastern Partnership countries towards sustainable democratic development and European integration. The Index measures steps taken on the path towards good governance, including the observance and protection of democracy and human rights, sustainable development, and integration with the European Union.

The EU's Eastern Partnership initiative, launched in 2009, signalled the commitment of the governments of the six Eastern European partner countries (Armenia, Azerbaijan, Belarus, Georgia, Republic of Moldova, and Ukraine) to respect the values of democracy and human rights, and to align with EU standards of good governance and the rule of law. From the beginning of the Eastern Partnership initiative, the respective national governments in the Eastern Partnership countries expressed clear differences in aspirations concerning closer integration with the EU. While some had aspirations of membership, others saw a turn to the west as a challenge to long-lasting ties with Russia, and others wanted to pursue a more multipolar approach.

The period covered by the *Index 2017* marked the first full years of visa-free travel agreements between the EU and respectively Ukraine and Georgia, and continued implementation of the Association Agreements between the EU and respectively Georgia, Moldova, and Ukraine, including the Deep and Comprehensive Free Trade Area agreements.

This edition of the Index charts the time when Armenia worked with the EU on moving towards an agreement around the non-trade parts of the Association Agreement, when gradual progress emerged towards more co-operation between the EU and Belarus, and when negotiations continued between the EU and Azerbaijan towards a "strategic modernisation partnership agreement".

The Index charts progress and reverses in reforms, but also generates recommendations to guide countries along the reform process and to signal concerns when progress is flagging or even reversed. The Index is also intended to serve as an important monitoring tool for policymakers, independent researchers, think-tanks and civil society actors.<sup>1</sup>

## CHARTING THE PATH TOWARDS EUROPEAN INTEGRATION AND SUSTAINABLE DEMOCRATIC DEVELOPMENT

The Eastern Partnership Index is a set of individual and composite indicators which measure the extent to which the six Eastern European neighbour countries of the EU have established sustainable democratic institutions and practices, and the level of their integration with the EU. "Integration" is conceived here as a core and multi-dimensional concept that consists of converging norms, growing economic exchange, deeper transnational networks linking up societies, and more frequent contacts between people. This broad notion of integration implies that EU membership or association may be aims, stages or final states of the integration process.

It is not limited to a normative approach, or a measure of harmonisation with EU norms and standards, but also reflects actual societal, economic and political change. The levels of contractual relations between the Eastern Partnership (EaP) states and the EU are viewed as elements of a much broader process that is, as a whole, not driven or controlled solely by governments and intergovernmental negotiations.

<sup>1</sup> The Index does not cover the situation in the separatist-held territories of eastern Ukraine, Russia-occupied Crimea, Nagorno-Karabakh, or the breakaway regions of Transnistria, South Ossetia, and Abkhazia.

Rather, European integration is seen as a non-hierarchical, networked process where citizens, civic associations and business organisations play important roles. The interplay of these actors has been crucial for the historical development of the EU itself, as it induced and supported national political elites to take legal and institutional steps towards closer integration. Drawing on this experience, the Index is built on the premise that the ties between societies, peoples and economies form dimensions of European integration that are at least as important as the policy agendas of national governments and European Commission officials.

It is further assumed that transnational linkages contribute to the emergence and spread of common European and international norms which, in turn, facilitate closer linkages with the EU. For example, increasing trade is likely to strengthen domestic companies that benefit from foreign investment and are likely to become more aware of the importance of courts that protect investors' rights. A judicial system based on fair procedures and professionalism will then contribute to attracting more foreign investors.

An analogous reinforcing dynamic derives from a commitment to international norms and universal values. By incorporating democratic values, the protection of human rights and the rule of law in their constitutions, EaP states have adopted universal norms that have formed the basis of co-operation and integration among West European states since the end of the Second World War.

Further absorption of the core principles of the EU, laid down as a threshold for membership (Copenhagen criteria), gives a further indication of alignment with the EU member states and the capacity for the EaP countries to transform their economies and societies. The more these norms are implemented and respected in EaP states, facilitating sustainable democratic development, the more co-operation with the EU will ensue because these states and the EU will increasingly recognise each other as partners sharing common norms and underlying values.

Furthermore, harmonisation with the norms of sustainable democratic development stretches beyond the European integration agenda. Just as observance of the rule of law, and its application in a non-arbitrary fashion, and the existence of freedom of expression and a competitive

party political system, are measured in line with international norms and good practice, so the protection and observance of human rights is a universal norm.

Just as the elements of "deep and sustainable democracy" are set out in the Index, so are measures of sustainable development, including attainment of the UN sustainable development goals. Sustainable development in terms of key indicators such as health, poverty, and education, as well as environmental protection, are therefore given a central place in the Index, given their relevance to social and economic development and the fostering of a sustainable democratic society.

This fundamental idea of sustainable democratic development leading towards European integration and its driving forces is reflected in the conceptual design of the Eastern Partnership Index (see **The Two Dimensions of the Index**, pages 16-17).

## APPROXIMATION AND LINKAGE MEASURE TWO KEY DIMENSIONS OF EUROPEAN INTEGRATION

The *Index 2015-2016* and the current *Index 2017* are the continuation of what was formerly known as the *European Integration Index for Eastern Partnership Countries*, building on the strong focus on the European integration process, and updating the index to reflect the current medium- and long-term challenges of sustainable development, human rights and democracy, and security and international co-operation in a tense political region. The earlier Index had three dimensions: *Approximation*, *Linkage*, and *Management* (of the EU integration process). To strengthen the focus of the Index and to emphasize that the Index is of direct relevance also to the countries whose governments have not expressed clear-cut aspirations towards closer European integration, *Management* was folded into the other dimensions.

Data in the *Index 2017* covers the period of January-December 2017, combining independent analysis with annual quantitative data to provide a snapshot of progress in the attainment and ongoing implementation of internationally recognised democratic standards and practice.

Two dimensions of European integration are distinguished in the construction of the Index: *Approximation* and *Linkage*.

The first dimension, *Approximation*, captures the extent to which EaP countries have implemented key EU norms and international standards. This dimension is divided into three sections.

The first section – **Deep and Sustainable Democracy** – comprises the adoption and implementation of human rights and democratic principles that are, amongst others, defined in the European Convention on Human Rights, by the Council of Europe and the Organization for Security and Co-operation in Europe (OSCE), including the preceding Helsinki process.

The section on **EU Integration and Convergence** examines whether states have converged with EU norms on trade, security, migration, energy, environment and transport infrastructures. The section on **Sustainable Development** assesses whether states have achieved the sustainable development goals defined by the United Nations.

The second dimension, *Linkage*, encompasses the transnational linkages between business, civil society, citizens and governments in EaP countries and EU countries. This dimension consists of three sections.

The section on **International Security, Political Dialogue and Co-operation** examines how EaP and EU governments coalesce in crucial areas of international security, defence, border management and development. Intergovernmental contacts are conceptualised as a part of an emerging “European society”, not as a (facilitating or constraining) framework for societal linkages. This section also considers the extent to which the EaP states control their own security as sovereign actors.

The section on **Sectoral Co-operation and Trade Flows** measures the extent to which trade and investment integrate the EaP countries with the EU. In addition, the integration of energy supplies/markets and the density of transport links are assessed separately, since these two sectors constitute crucial infrastructures for economic integration.

The section on **Citizens in Europe** measures the extent of mobility, migration and communication flows of citizens between EaP countries and the EU. Societal linkages are conceived not only as a set of bilateral EU-EaP relations following a hub-and-spokes or centre-periphery model. Rather, intra-EaP linkages are also taken into account. The Index focuses on migration as a process leading to deeper European integration and, ultimately, the full freedom of movement. Migration is not understood here as a threat to the EU’s internal security or as an EU policy to prevent illegal migration with the help of EaP states.

## THE INDEX GOES BEYOND EUROPEAN INTEGRATION, LOOKING AT REFORMS FOR THEIR INTRINSIC MERITS

This structure does not attempt to mirror the items on the EU’s Eastern Partnership agenda because, firstly, this agenda will be increasingly differentiated and tailored to match the varying aspirations and priorities of the individual EaP states. Thus, comparison of the EaP countries’ compliance with diverging official agendas will become increasingly difficult, if not impossible.

Secondly, since the Index is developed in the context of the Eastern Partnership Civil Society Forum, the Index aims to represent the views of civil society rather than only the positions and priorities of the European Commission and national governments. Rather than tracing the implementation of governmental and Commission-level policy agendas down to every technical detail, the Index focuses on outcomes that matter most for people and society.

Adopting the perspective of civil society has manifest advantages. It is a step towards more “ownership” on the part of civic associations and society within the Eastern Partnership, contributing to “societal resilience”. In addition, this inclusive comparative perspective provides space and a voice for the citizens of EaP countries whose governments are not currently interested in further European integration.

Reflecting the underlying perspective of civil society, the Index places particular emphasis on people-to-people contacts and transnational linkages among civil society organisations. In contrast, the governmental agenda of sectoral regulatory alignment is less extensively covered.



Taken together, the Index has four important characteristics:

- It sets out a detailed standard for the assessment of “deep and sustainable democracy”.
- It provides a cross-country and cross-sector picture that is both nuanced and comparative. The six countries are assessed across a common set of questions and indicators.
- It goes further than the EU integration process, looking at reforms for their intrinsic merits in strengthening democracy, good governance, security and sovereignty, and sustainable development in the respective countries.
- Finally, the Index offers independent analysis provided by experts in the partner countries.

The full breakdown, and the questionnaire and sources underpinning the Eastern Partnership Index 2017, are available at <http://eap-csf.eu/eastern-partnership-index/>.

The methodology of the Index is further explained in the chapter, **Methodology of the Index** (page 148-151).

The Index was developed by a group of more than 50 civil society experts from EaP and EU countries. Many more contributed comments at various stages. The Eastern Partnership Index was initiated and launched in 2011 by the International Renaissance Foundation (IRF), Ukraine, and Open Society Foundations. The Eastern Partnership Civil Society Forum took over as leader of the project in 2014 and has subsequently produced the Index.

The project is funded by the European Union. In the past, the project has benefited from the support of Open Society Foundations, individual foundations of Open Society Foundations in Eastern Partnership countries, the Ministry of Foreign Affairs of the Czech Republic, and the Swedish International Development Co-operation Agency (SIDA).

# THE TWO DIMENSIONS OF THE INDEX

\* Sections marked with an asterisk are not counted towards the scores in the Index

## APPROXIMATION DIMENSION

|         |  |           |  |
|---------|--|-----------|--|
|         |  | 1.7.2     | Anti-discrimination legislation                              |
|         |  | 1.7.3     | Anti-discrimination policy                                   |
| 1       | DEEP AND SUSTAINABLE<br>DEMOCRACY  | 1.8       | Fight Against Corruption                                     |
|         |  | 1.8.1     | Control of corruption  |
|         |  | 1.8.2     | Internal and external auditing                               |
|         |  | 1.8.3     | Public procurement   |
| 1.1     | Democratic Rights and Elections,<br>including Political Pluralism                              | 1.9       | Public Administration  |
| 1.1.1   | Fair electoral campaign  | 1.9.1     | Policy formulation and co-ordination                         |
| 1.1.2   | Legal framework and its<br>implementation  | 1.9.2     | Impartial and professional civil<br>service                  |
| 1.1.3   | Organisation of elections  | 1.9.2.1   | Legal framework of civil service<br>management               |
| 1.1.4   | Electoral competitiveness  | 1.9.2.2   | Institutional framework                                      |
| 1.2     | Human Rights and Protection<br>Against Torture   | 1.9.2.3   | Employment and remuneration                                  |
| 1.2.1   | Violations of civil liberties and<br>human rights  | 1.9.2.4   | Recruitment, promotion, and<br>disciplinary procedures       |
| 1.2.2   | Legal framework  | 1.9.2.5   | Management of public service quality                         |
| 1.3     | State Accountability   |           |  |
| 1.3.1   | Executive accountability to legislature  | 2         | EU INTEGRATION AND<br>CONVERGENCE                            |
| 1.3.1.1 | Legislature's influence over executive   |           |  |
| 1.3.1.2 | Legislature's institutional autonomy   | 2.1       | Market Economy and DCFTA<br>Alignment                        |
| 1.3.1.3 | Legislature's specific powers  | 2.1.1     | Business climate   |
| 1.3.1.4 | Legislature's institutional capacity   | 2.1.2     | DCFTA  |
| 1.3.1.5 | Conditions for opposition  | 2.1.2.1   | Trade defence instruments and<br>technical barriers to trade |
| 1.3.2   | Transparent budgeting  | 2.1.2.1.1 | Trade defence instruments                                    |
| 1.3.3   | Democratic control over security<br>and law enforcement institutions                           | 2.1.2.1.2 | Technical barriers to trade (TBT)                            |
| 1.3.3.1 | Internal control   | 2.1.2.2   | Sanitary and phytosanitary measures                          |
| 1.3.3.2 | Parliamentary oversight  | 2.1.2.3   | Customs and trade facilitation                               |
| 1.3.3.3 | Transparency   | 2.1.2.4   | Services and establishments                                  |
| 1.3.3.4 | Civil society oversight  | 2.1.2.5   | Capital  |
| 1.4     | Independent Media  | 2.1.2.6   | Intellectual property rights                                 |
| 1.4.1   | Media freedom  | 2.1.2.7   | Competition and state aid                                    |
| 1.4.2   | Internet   |           |  |
| 1.5     | Freedom of Speech and Assembly   | 2.2       | Freedom, Security and Justice                                |
|         |  | 2.2.1     | Visa dialogue  |
|         |  | 2.2.2     | Irregular immigration, including<br>readmission              |
| 1.6     | Independent Judiciary  | 2.2.3     | Border management  |
| 1.6.1   | Appointment, promotion and<br>dismissal of judges  | 2.2.4     | Security and combatting organised<br>crime                   |
| 1.6.2   | Institutional independence   |           |  |
| 1.6.3   | Judicial powers  | 2.3       | Energy: Legislation Convergence and<br>Energy Policy         |
| 1.6.4   | Accountability and transparency  | 2.3.1     | Institutional framework of energy<br>market                  |
| 1.7     | Equal Opportunities and Non-<br>Discrimination   | 2.3.2     | Energy efficiency  |
| 1.7.1   | International and regional human<br>rights legal documents<br>(Has your country ratified ...?) |           |  |

|        |  |         |   |
|--------|--|---------|---|
| 2.4    | Environment and Climate Policy   | 1.3.2   | OSCE *  |
| 2.4.1  | Environmental policy   | 1.3.3   | Defence strategy and international co-operation                       |
| 2.4.2  | Climate change   | 1.3.4   | Defence capacity *  |
| 2.5    | Transport: Regulatory Policy   | 1.4     | Border Security   |
| 3      | SUSTAINABLE DEVELOPMENT  | 1.5     | EU Funding of Security Projects                                       |
| 3.1    | Sustainable Development Policy   | 1.6     | Development Assistance from the EU and EU Member States               |
| 3.2    | Sustainable Development Goals  | 1.6.1   | European Neighbourhood and Partnership Instrument (ENPI)              |
| 3.2.1  | Health and poverty   | 1.6.1.1 | Country-specific  |
| 3.2.2  | Education and life-long learning opportunities   | 1.6.1.2 | ENPI East regional/interregional)                                     |
| 3.2.3  | Gender equality and women's empowerment: legal framework in place to monitor equality and non-discrimination | 1.6.1.3 | Thematic instruments and programmes, and special technical assistance |
| 3.2.4  | Water and sanitation   | 2       | SECTORAL CO-OPERATION AND TRADE FLOWS                                 |
| 3.2.5  | Sustainable economic growth  | 2.1     | Trade with the EU: Commodities  |
| 3.2.6  | Resilient infrastructure, sustainable industrialisation, and innovation                                      | 2.2     | Investment and Loans from the EU                                      |
| 3.2.7  | Ensure sustainable consumption and production patterns   | 2.3     | Trade with the EU: Services   |
| 3.2.8  | Resource efficiency  | 2.4     | Trade Defence Instruments   |
| 3.2.9  | Pressure on/state of environment   | 2.5     | Energy Interdependence  |
| 3.2.10 | Protect, restore and promote sustainable use of terrestrial ecosystems                                       | 2.6     | Transport: Integration with Trans-European Networks                   |
| 3.3    | Education and Culture Policy   | 2.7     | Environment Legislation and Co-operation                              |
| 3.3.1  | Education policy   | 3       | CITIZENS IN EUROPE  |
| 3.3.2  | Culture policy   | 3.1     | Cultural Exchange and Co-operation                                    |
| 3.3.3  | Youth policy   | 3.2     | Affinity with the European Union                                      |
|        |  | 3.3     | Co-operation in Science and Education                                 |
|        |  | 3.4     | Mobility, including Academic and Student Mobility                     |
|        |  | 3.5     | Digital and Information Society                                       |

**LINKAGE DIMENSION**

# THE 2017 INDEX - THE KEY RESULTS AT A GLANCE

## ASSOCIATION AGREEMENT SIGNATORIES, JOINED BY ARMENIA IN APPROXIMATION, LEAD THE INDEX

The full implementation following entry into force of the Association Agreements (AA) saw sustained leadership in integration with the EU on the part of Georgia, Moldova, and Ukraine, but Moldova slipped in the *Approximation* dimension in the period covered by the Eastern Partnership Index 2017 (January-December 2017).

In *Linkage*, there continued to be a clear divide between the three AA signatories and the other three Eastern Partnership countries – Armenia, Azerbaijan, and Belarus.

However, in the case of *Approximation*, Ukraine emerged as clear frontrunner, as Moldova slipped behind both Ukraine and Armenia, but remained narrowly ahead of Georgia. The weakest two performers continued to be Azerbaijan and Belarus, not least due to these two countries' persistent failings in democracy and human rights. The score of Armenia reflects the previous progress made prior to the country's withdrawal from an Association Agreement with the EU, even though the Index figures precede the democratic reforms of Armenia's Velvet Revolution in May 2018.

Ukraine and Moldova still lag behind in the market economy and in the most effective use of their Deep and Comprehensive Free Trade Area (DCFTA) agreements with the EU. While the EU is the largest trade partner of both countries, and Moldova and Ukraine have by far the largest share of EU imports, the three South Caucasus countries and Belarus all have a significantly more favourable business environment than Moldova and Ukraine.

While Belarus engaged in negotiations on visa facilitation and readmission with the EU, Azerbaijan continued negotiations on a Strategic Modernisation Partnership Agreement, but sustained its poor record on human rights, in particular the imprisonment of

opposition politicians, human rights defenders, independent journalists and bloggers.

## HIGHLIGHTS

**Ukraine** led in *Approximation*, where it narrowly led Moldova and Georgia in Deep and Sustainable Democracy, within which Ukraine scored highest on Freedom of Speech and Assembly, and on Equal Opportunities and Non-Discrimination. In EU Integration and Convergence, Ukraine remained the frontrunner, followed by Moldova. However, the two Association Agreement signatories remained the worst two performers in terms of the business climate. Ukraine, together with Georgia, led on freedom, security and justice. Ukraine also led on Environment and Climate Policy and Transport: Regulatory Policy. In Sustainable Development, Ukraine closely followed the frontrunner Azerbaijan and second-placed Belarus.

In *Linkage*, Ukraine remained in third position, but slipped behind Georgia and Moldova in International Security, Political Dialogue and Co-operation. Ukraine did retain leadership in Political Dialogue with the EU and Border Security, but fell behind Moldova in Sectoral Co-operation and Trade Flows. Although still behind Georgia, Moldova and Armenia, Ukraine improved in Citizens in Europe, in part as a result of the achievement of visa-free travel to the Schengen countries.

**Moldova** slipped to third place, behind Ukraine and Armenia, in *Approximation*, and fell behind Ukraine and Georgia in Deep and Sustainable Democracy. Moldova led in the Fight Against Corruption, largely because of legal and institutional measures in place rather than practice. For EU Integration and Convergence, Moldova ranked second after Ukraine, and remained behind Georgia and Ukraine on DCFTA. On Sustainable Development, it shared last place with Georgia, with weak performance on the attainment of the Sustainable Development Goals.

Moldova, together with Georgia, shared the highest *Linkage* score of all six countries.

Moldova was placed second behind Georgia in International Security, Political Dialogue and Co-operation, but within that section Moldova led on Intergovernmental Co-operation and Engagement in EaP Multilateral Events/Panels. Moldova also outperformed the other five countries in Sectoral Co-operation and Trade Flows, and ranked second to Georgia in Citizens in Europe.

**Georgia** remained in fourth place in *Approximation*. However, it was a close second-place to Ukraine in Deep and Sustainable Democracy, where Georgia was the frontrunner in Human Rights and Protection Against Torture, State Accountability, and Independent Media. In EU Integration and Convergence, Georgia was placed third, equal with Armenia, behind Ukraine and Moldova. Although Georgia led on Market Economy and DCFTA Alignment, it was the worst placed EaP country on Energy: Legislation Convergence and Energy Policy. On Sustainable Development, Georgia shared last place with Moldova, with a poor record on the Sustainable Development Goals.

In *Linkage*, Georgia was joint leader with Moldova, and emerged as the frontrunner in International Security, Political Dialogue and Co-operation, but failed to match Ukraine and Moldova in Sectoral Co-operation and Trade Flows. On Environment Legislation and Co-operation, Georgia trailed in fourth place behind Ukraine, Belarus and Moldova. In Citizens in Europe, Georgia was the frontrunner, scoring highest for Cultural Exchange and Co-operation and improving in Mobility against the previous Index following the introduction of visa-free travel to the Schengen countries.

In *Approximation*, **Armenia** was placed second, ahead of Moldova and Georgia, although it trailed in fourth place in Deep and Sustainable Democracy. For EU Integration and Convergence, Armenia was placed jointly third with Georgia and, as in the previous Index, was placed second, behind Georgia, for Market Economy and DCFTA Alignment. Armenia was paced fourth for Sustainable Development, but was closer to the leading three EaP countries than to the lowest-placed Georgia and Moldova.

Armenia ranked fourth in *Linkage*, well behind the three AA signatory countries. Armenia was placed fourth in International Security, Political Dialogue and Co-operation, while only Belarus was placed lower in Political Dialogue with

the EU. Armenia was the worst performer in Sectoral Co-operation and Trade Flows, notably last on Energy Interdependence, a reflection of the country's energy dependence on Russia. Armenia fared better, in third place, in Citizens in Europe, reflecting higher scores for Cultural Engagement and Co-operation.

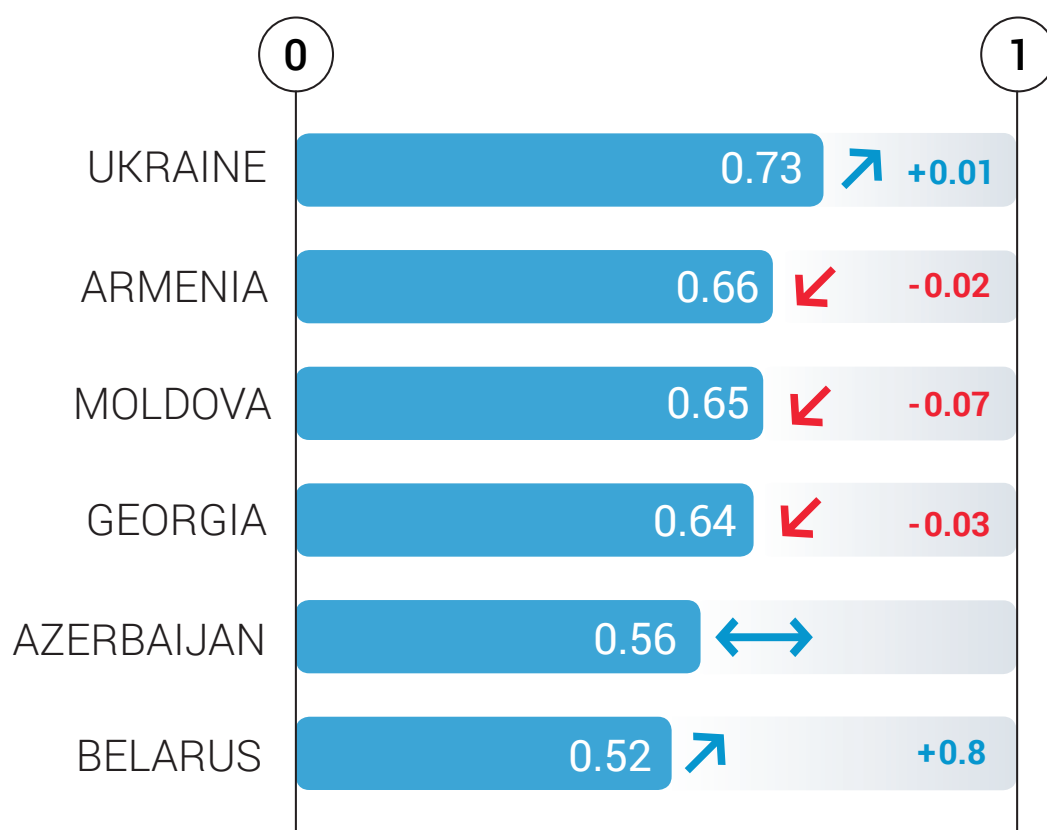
**Azerbaijan** was placed fifth in *Approximation*, far behind the leading four countries. Placed fifth for Deep and Sustainable Democracy, Azerbaijan was the lowest ranked for Democratic Rights and Elections, and also for Independent Media, Freedom of Speech and Assembly, and Independent Judiciary. Ranked fifth for EU Integration and Convergence, Azerbaijan was the lowest placed for Environment and Climate Policy. Azerbaijan was placed first for Sustainable Development, reflecting its relatively high standard of living.

Azerbaijan ranked fifth place in *Linkage*, up from sixth place in the previous Index. It was in the lowest place for International Security, Political Dialogue and Co-operation, but its climb from the lowest position in *Linkage* in the previous Index mainly reflected improved scores in Intergovernmental Co-operation and Engagement in EaP Multilateral Events/Panels and in International Security Co-operation. Azerbaijan remained in fourth place in Sectoral Co-operation and Trade Flows, and fifth place in Citizens in Europe, reflecting the lack of visa-free travel (Mobility), alongside the low level of Cultural Exchange and Co-operation.

Placed sixth in *Approximation*, **Belarus** continued to have the worst record in Deep and Sustainable Democracy, including sixth place for Human rights and Protection against Torture, as the only EaP country that retains the death penalty, and for State Accountability. Belarus also featured in last place for EU Integration and Convergence, although it fared better than Ukraine, Moldova and Armenia on business climate. Belarus ranked second on Sustainable Development, reflecting its relatively high health indicators.

Belarus ranked lowest also in *Linkage*, and was placed fifth for International Security, Political Dialogue and Co-operation. Within this section, Belarus had a far lower level of Political Dialogue with the EU than any other EaP country. Belarus took fifth place in Sectoral Co-operation and Trade Flows. Despite the high number of students in the EU, Belarus was placed sixth in Citizens in Europe.

## APPROXIMATION DIMENSION



Approximation captures the extent to which EaP countries have implemented key EU norms and international standards. This dimension is divided into three sections:

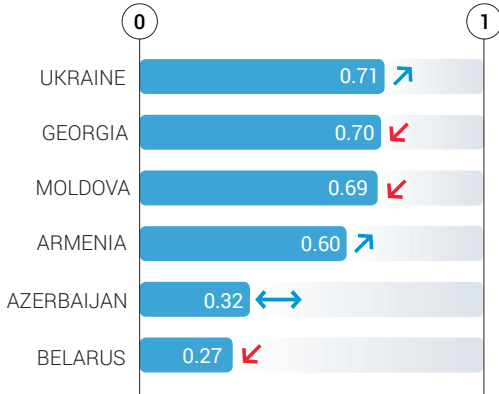
**DEEP AND SUSTAINABLE DEMOCRACY** measures the adoption and implementation of human rights and democratic principles that are defined by, among others, the European Convention on Human Rights, the Council of Europe, and the Organization for Security and Co-operation in Europe (OSCE), including the preceding Helsinki process.

**EU INTEGRATION AND CONVERGENCE** measures whether the EaP countries have converged with EU norms on trade, security, migration, energy, environment and transport infrastructures.

**SUSTAINABLE DEVELOPMENT** measures the sustainable development policies of the EaP countries and the extent to which they have achieved the sustainable development goals defined by the United Nations.

## APPROXIMATION SECTIONS

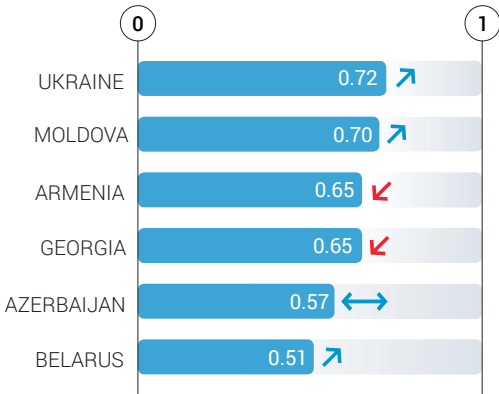
### Deep and Sustainable Democracy



Deep and Sustainable Democracy measures the adoption and implementation of human rights and democratic principles that are defined by, among others, the European Convention on Human Rights, the Council of Europe, and the Organization for Security and Co-operation in Europe (OSCE), including the preceding Helsinki process. The indicators contributing to the scores are:

- Democratic Rights and Elections, including Political Pluralism
- Human Rights and Protection Against Torture
- State Accountability
- Independent Media
- Freedom of Speech and Assembly
- Independent Judiciary
- Equal Opportunities and Non-Discrimination
- Fight Against Corruption
- Public Administration

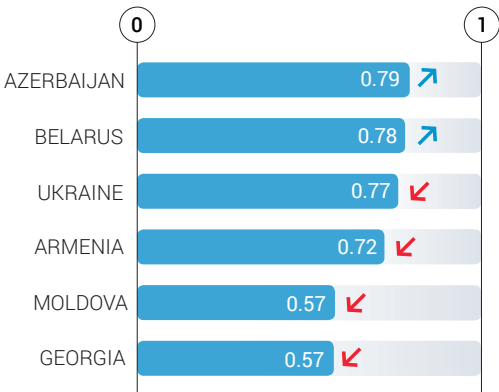
### EU Integration and Convergence



EU Integration and Convergence measures convergence with EU norms on trade, security, migration, energy, environment and transport infrastructures. The indicators contributing to the scores are:

- Market Economy and DCFTA Alignment
- Freedom, Security and Justice
- Energy: Legislation Convergence and Energy Policy
- Environment and Climate Policy
- Transport: Regulatory Policy

### Sustainable Development

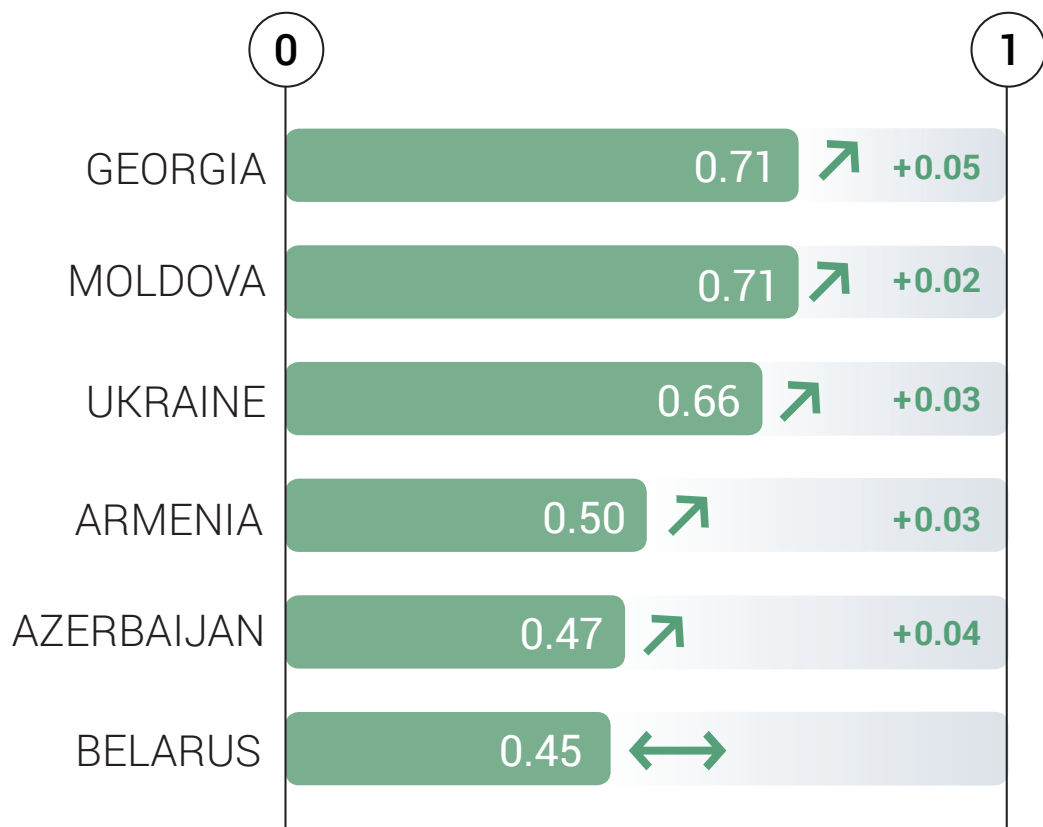


Sustainable Development measures the sustainable development policies of the EaP countries and the extent to which they have achieved the sustainable development goals defined by the United Nations. The indicators contributing to the scores are:

- Sustainable Development Policy
- Sustainable Development Goals
- Education and Culture Policy



## LINKAGE DIMENSION



Linkage encompasses the international linkages between business, civil society, citizens and governments in EaP countries and EU countries. This dimension consists of three sections:

**INTERNATIONAL SECURITY, POLITICAL DIALOGUE AND CO-OPERATION** measures how EaP and EU governments coalesce in crucial areas of international security, defence, border management and development. Intergovernmental contacts are conceptualised as a part of an emerging "European society", not as a (facilitating or constraining) framework for societal linkages. This section also considers the extent to which the EaP states control their own security as sovereign actors.

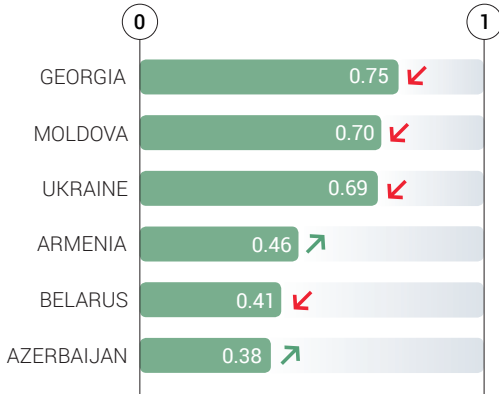
**SECTORAL CO-OPERATION AND TRADE FLOWS** measures the extent to which trade and investment integrate the EaP countries with the EU. The integration of energy supplies/markets and the density of transport links are assessed separately, since these two sectors constitute crucial infrastructures for economic integration.

**CITIZENS IN EUROPE** measures the extent of mobility, migration and communication flows of citizens between EaP countries and the EU. Societal linkages are not only conceived as a set of bilateral EU-EaP relations following a hub-and-spokes or centre-periphery model. Rather, intra-EaP linkages are also taken into account. The Index focuses on migration as a process leading to deeper European integration and, ultimately, the full freedom of movement. Migration is not understood here as a threat to the EU's internal security or as an EU policy to prevent illegal migration with the help of EaP states.



## LINKAGE SECTIONS

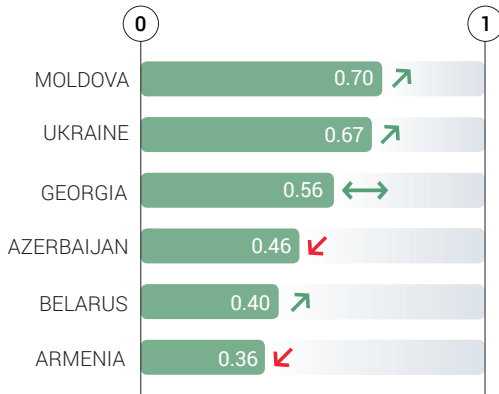
### International Security, Political Dialogue and Co-operation



International Security, Political Dialogue and Co-operation measures how EaP and EU governments coalesce in crucial areas of international security, defence, border management and development. Intergovernmental contacts are conceptualised as a part of an emerging “European society”, not as a (facilitating or constraining) framework for societal linkages. This section also considers the extent to which the EaP states control their own security as sovereign actors. The indicators contributing to the scores of this section are:

- Political Dialogue with the EU
- Intergovernmental Co-operation and Engagement in EaP Multilateral Events/ Panels
- International Security Co-operation
- Border Security
- EU Funding of Security Projects
- Development Assistance from the EU and EU Member States

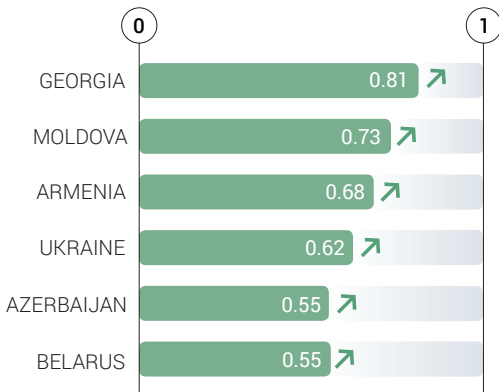
### Sectoral Co-operation and Trade Flows



Sectoral Co-operation and Trade Flows measures the extent to which trade and investment integrate the EaP countries with the EU. The integration of energy supplies/markets and the density of transport links are assessed separately, since these two sectors constitute crucial infrastructures for economic integration. The indicators contributing to the scores of this section are:

- Trade with the EU: Commodities
- Investment and Loans from the EU
- Trade with the EU: Services
- Trade Defence Instruments
- Energy Interdependence
- Transport: Integration with Trans-European Networks
- Environment Legislation and Co-operation

### Citizens in Europe



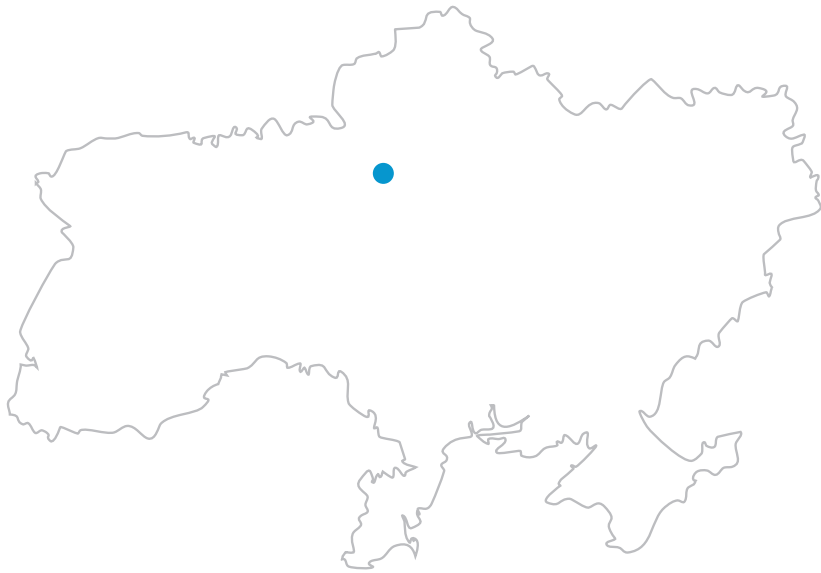
Citizens in Europe measures the extent of mobility, migration and communication flows of citizens between EaP countries and the EU. Intra-EaP linkages are also taken into account. The Index focuses on migration as a process leading to deeper European integration and, ultimately, the full freedom of movement. Migration is not understood here as a threat to the EU’s internal security or as an EU policy to prevent illegal migration with the help of EaP states. The indicators contributing to the scores of this section are:

- Cultural Exchange and Co-operation
- Affinity with the European Union
- Co-operation in Science and Education
- Mobility, including Academic and Student Mobility
- Digital and Information Society



# COUNTRY ASSESSMENTS

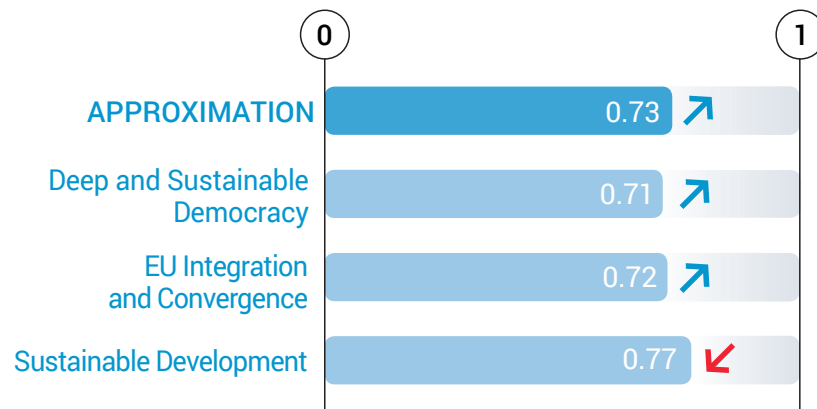




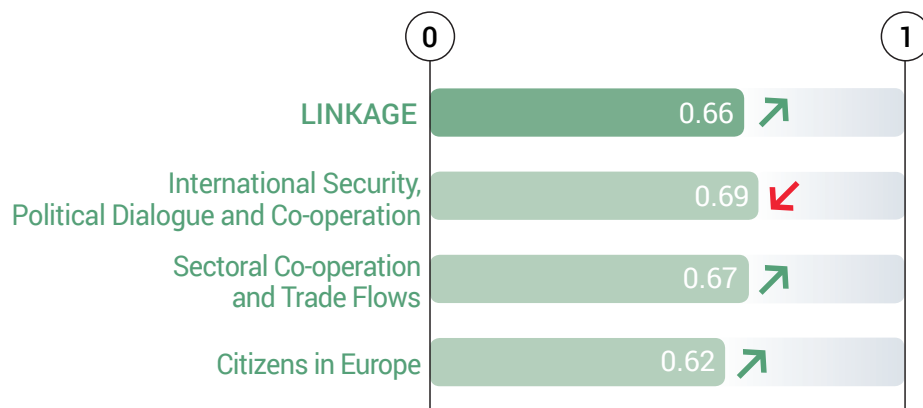
# UKRAINE



## APPROXIMATION



## LINKAGE



# UKRAINE

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## TOP CHALLENGES FOR 2019

- A key priority in an election year should be the retention of a critical mass of reform-minded ministerial staff, many of whom joined the civil service as a result of the Revolution of Dignity. Populism and vote-winning messaging are likely to drown out the implementation of reforms in 2019, which will be dominated by the presidential, then parliamentary, election campaigns. Public opinion polls during 2018 provide neither the incumbent President nor the governing coalition in the parliament with any certainty that they will win another term in office. A priority should be policies to stimulate economic revival to ensure that low economic growth and higher inflation do not stoke social unrest and political instability.
- The government and the parliament can reaffirm their commitment to the swift implementation of the roadmap on the adoption of legislation in line with the [EU-Ukraine] Association Agreement Implementation Plan.<sup>1</sup> In the event of a substantial change in the political composition of the parliament, it will be important that there are a sufficient number of MPs in parliament committed to closer integration with the EU and with experience in managing the legislative agenda.
- Maximum precautions should be taken to guard against political destabilisation by Russia overtly or covertly in the election period, not least through efforts to bring closely affiliated political parties and politicians back into power in Ukraine.
- The EU and civil society should monitor the completion of the design and establishment of the anti-corruption institutional framework in Ukraine, including the selection process for judges to the High Anti-Corruption Court. Strong international engagement will be crucial to support anti-corruption activists who face intense pressure and threats, including physical attacks.
- More diplomatic engagement and a high degree of political will will be necessary to move beyond the ineffective Minsk agreements and the Normandy format,<sup>2</sup> to bring Russia to the negotiating table and to end the conflict in Eastern Ukraine and to restore Ukraine's territorial integrity.

<sup>1</sup> Action Plan for Implementation of the Agreement, 7 March 2018, <https://eu-ua.org/plan-zakhodiv-z-vykonannia-uhody>

<sup>2</sup> On 11 February 2015, the leaders of Ukraine, Russia, France, and Germany agreed in Minsk to a package of measures to alleviate the war in Eastern Ukraine. The talks followed the collapse of the Minsk Protocol, signed in Minsk on 5 September 2014 by representatives of Ukraine, Russia, and the self-declared leaders of the so-called Donetsk People's Republic (DPR) and Luhansk People's Republic (LPR) with a view to implementation of an immediate ceasefire. The Normandy Four comprises diplomatic representatives of Germany, Russia, Ukraine and France, working to alleviate the conflict.

## PROGRESS ON THE WESTERN FRONT AND STAGNATION ON THE EASTERN FRONT

From 2017 onwards, favourable conditions were in place for making progress towards closer integration with the EU and for the implementation of sustainable democratic reforms. Partially due to international pressure, the Russian military and Russia-backed separatist forces did not make further advances into Ukrainian territory. Although the number of ceasefire violations over the front line remained high, the level of the conflict had receded enough for the government in Kyiv to be able to focus resources on internal reforms and to make up ground on the path towards closer integration with the EU.

Following the appointment in April 2016 of Volodymyr Hroysman as Prime Minister, political turf battles between President Petro Poroshenko and the parliament (Verkhovna Rada) abated, and the relative time distance until the next elections allowed attention to focus on the reform agenda and facilitated compromises between political factions in the parliament. On the other hand, corporate interests and proponents of protectionism influenced a range of issues related to the Association Agreement with the EU – to the extent that it was sometimes difficult to secure a majority for key votes in the parliament.

The introduction of visa-free travel to the Schengen countries and the full application of the Association Agreement and the Deep and Comprehensive Free Trade Area (DCFTA) agreement with the EU were landmarks on the path towards integration with the EU. These developments, both of which took effect in 2017, contributed to a further deepening of Kyiv-Brussels relations.

In 2017, Ukraine continued to consolidate strategic legislation. In April, the government adopted the Medium-term Governmental Action Plan for the period until 2020, which includes goals in the spheres of economic and energy diplomacy, EU and Euro-Atlantic integration. In February, the President approved the Doctrine of Information Security of Ukraine. The Energy Strategy of Ukraine until 2035, adopted in June with the support of the EU and wider expert community, laid the ground for stronger energy security and diversification of energy supplies.

The progress continued into 2018. In July 2018, a comprehensive Law on National Security entered into force, outlining the principles of public policy in the domain of security and defence and, more importantly, stipulating the legal preconditions for civic oversight over the security sector.

Following the arrival of Donald Trump in the US White House in January 2017, the US-Ukraine security dialogue improved slightly. To substitute the “Nuland-Surkov”<sup>3</sup> communication channel between the US and Russia, in June 2017 the then Secretary of State Rex Tillerson appointed Kurt Volker as the US Special Representative for Ukraine Negotiations. Surkov and Volker subsequently met numerous times, although no real breakthrough in the Russian-Ukrainian conflict has taken place as a result. In addition to issues concerning the implementation of the Minsk agreements, this channel of dialogue provided a forum for talks on the possibility of deploying a UN peacekeeping mission in Donbass.

Meetings in the Normandy Format, both at the level of heads of state (or government in the case of the German Chancellor) and foreign ministers, were less frequent. Following a 16-months break, the latter met in Berlin in June 2018. The main issue discussed was the release of Ukrainian hostages and prisoners held in Russia and in the occupied parts of Ukraine, both in Crimea and Donbass. With an absence of results, the deadlock in negotiations led instead to gatherings in the format of three (Germany, France, and Ukraine) where common ground was possible. For instance, the leaders of these three countries met in Aachen, Germany, in May 2018.

Elections held on 11 November 2018 in the Russia-backed Donetsk and Luhansk “People’s Republics” were condemned by the EU as “illegal and illegitimate ... they are in breach of international law, undermine the commitments taken under the Minsk agreements and violate Ukraine’s sovereignty and law”. The Minsk agreement called for “local elections” held under Ukrainian law and monitored by the OSCE. Moscow and the separatists claimed that the

<sup>3</sup> In May 2015, US Assistant Secretary of State Victoria Nuland was assigned by US President Barack Obama’s administration to hold unofficial bilateral talks on Ukraine and Syria with the Russian government. From January 2016, Vladislav Surkov, adviser to Russian President Vladimir Putin, participated in these negotiations, meeting with Nuland on a number of occasions.

11 November vote did not fit the definition of “local elections” described in the Minsk agreement and faulted Ukraine for failing to pass constitutional reforms on regional autonomy.<sup>4</sup>

Ukraine experienced some successes in its legal fight in international courts and arbitration chambers. In April 2017, the International Court of Justice ruled on provisional measures in the case concerning the Application of the International Convention for the Suppression of the Financing of Terrorism and of the International Convention on the Elimination of All Forms of Racial Discrimination – ostensibly that in Crimea Russia should “refrain from maintaining or imposing limitations on the ability of the Crimean Tatar community to conserve its representative institutions, including the Mejlis”, and “ensure the availability of education in the Ukrainian language”<sup>5</sup>.

In February 2018, the Stockholm Arbitration Court ordered Gazprom to pay \$2.56 billion to the Ukrainian state-owned energy firm Naftogaz.<sup>6</sup> In May 2018, the Permanent Court of Arbitration (PCA) in the Hague ruled that Russia must pay several Ukrainian companies compensation of about \$159 million in losses caused by the annexation of Crimea.<sup>7</sup>

On 25 October 2018, the European Parliament adopted a resolution on the situation in the Azov Sea (which lies between Russia and Ukraine above the Crimean peninsula), in which it condemned Russia’s militarisation of the Azov and Black Seas. The European Parliament also proposed the appointment of a Special

4 *Western Countries Condemning Separatist Vote in Eastern Ukraine*, Radio Free Europe/Radio Liberty, 12 November 2018, <https://www.rferl.org/a/ukraine-separatists-hold-polls-criticized-by-kyiv-the-west/29594226.html>

5 *The Court Finds that Russia Must Refrain from Imposing Limitations on the Ability of the Crimean Tatar Community to Conserve its Representative Institutions, including the Mejlis, and Ensure the Availability of Education in the Ukrainian Language*, press release, International Court of Justice, 19 April 2017, <https://www.icj-cij.org/files/case-related/166/19412.pdf>

6 *Ukraine’s Naftogaz Claims \$2.56 Billion Victory in Gazprom Legal Battle*, Reuters, 28 February 2018, <https://www.reuters.com/article/us-ukraine-crisis-russia-gazprom/ukraines-naftogaz-claims-2-56-billion-victory-in-gazprom-legal-battle-idUSKCN1GC2Z8>

7 *Hague Court Rules Russia Must Pay Ukrainian Companies US\$159m to Recover Crimean Losses*, UNIAN, 10 May 2018, <https://www.unian.info/politics/10111274-hague-court-rules-russia-must-pay-ukrainian-companies-us-159-mln-to-recover-crimean-losses.html>

EU Representative for Crimea and Donbass, whose mandate would extend to the Azov Sea.<sup>8</sup> The building of a bridge from Russia to Crimea across the Kerch Strait, and the increased militarisation of the area, have already begun to have a negative impact on trade for Ukraine, especially the port of Mariupol. “Most of Ukraine’s exports leave by sea, so a Russian escalation of this approach would be greatly damaging to Ukraine’s economy,” argued Andrew Wilson for the European Council on Foreign Relations (ECFR).<sup>9</sup>

In terms of policy at home, in 2017 Ukraine continued to underperform in the process of implementation of the Association Agreement in 2017.<sup>10</sup> The slow pace of implementation, and shortfalls in meeting some of the EU’s requirements under III Macro-financial assistance programme (MFA) gave grounds to the European Commission to suspend payment of the third tranche of €600 million. Two of the four conditions that were not met were directly related to anti-corruption measures. Ukraine received an instalment of \$1bn as the fourth tranche payment from the International Monetary Fund in April 2017, but is struggling to meet the IMF’s requirements in order to unlock the fifth instalment of \$1.9bn.

Ukraine leads among the six EaP countries in the **Approximation** dimension of the Index 2017, reflecting the progress made in alignment of laws and standards since signing the Association Agreement. International concerns persist, however, when it comes to Ukraine’s commitment to tackle corruption.

In the **Linkage** dimension of the Index 2017, Ukraine continues to lag behind Moldova and Georgia, although Ukraine remains far ahead

8 *Joint Motion for a Resolution on the Situation in the Sea of Azov (2018/2870(RSP))*, European Parliament, 24 October 2018, <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+MOTION+P8-RC-2018-0493+0+DOC+XML+V0//EN>

9 *Strait to War? Russia and Ukraine Clash in the Sea of Azov*, Andrew Wilson, European Council on Foreign Relations, 2 October 2018, [https://www.ecfr.eu/article/commentary\\_strait\\_to\\_war\\_russia\\_and\\_ukraine\\_clash\\_in\\_the\\_sea\\_of\\_azov](https://www.ecfr.eu/article/commentary_strait_to_war_russia_and_ukraine_clash_in_the_sea_of_azov)

10 *Report on the Implementation of the Association Agreement between Ukraine and the European Union in 2017*, Government Office for Co-ordination of European and Euro-Atlantic Integration, the Office of Deputy Prime Minister of Ukraine for European and Euro-Atlantic Integration, 2018, <https://www.kmu.gov.ua/storage/app/media/uploaded-files/Report%20on%20implementation%20of%20the%20Association%20Agreement%20between%20Ukraine%20and%20the%20European%20Union%20in%202017.pdf>



of Armenia, Azerbaijan and Belarus. Ukraine remains the leading EaP country in terms of the depth of political dialogue with the EU, and – along with Moldova – has strong trade relations with the EU, but trails Moldova and Georgia on cultural exchange and co-operation with the EU, and also on co-operation in science and education.

## SETBACKS IN ANTI-CORRUPTION REFORMS AND IN COMBATING HUMAN RIGHTS ABUSES

Deficiencies in the realm of sustainable democracy and human rights has been long-standing areas of concern in the eyes of international partners. The reluctance of the Ukrainian authorities to fully implement the anti-corruption package of reforms influenced negatively not only the political track in relations with the EU, but also co-operation with the IMF and other international financial organisations.

Anti-corruption reform is considered one of the most difficult areas for achieving progress. The challenge lies in putting in place all the necessary anti-corruption institutions and at the same time ensuring the cohesion of their procedural work. In 2017, some backsliding was evident, especially when it came to the High Anti-Corruption Court. The Law on the High Anti-Corruption Court was adopted in June 2018, but even then only under enormous international pressure.<sup>11</sup> To guarantee a smooth launch and the effective functioning of the future court, it will still be necessary to pass amendments to a number of other laws (the Law on Judiciary and Status of Judges, as well as the Law on the State Budget).

A particularly negative development in 2017-2018 was the emergence of a growing number of conflicts between the newly created bodies involved in fighting corruption. The most spectacular inter-agency standoff took place between the Specialised Anti-Corruption Prosecutor's Office (SAPO) and the National Anti-Corruption Bureau (NABU), including over the dismissal by SAPO of criminal cases against

certain public officials.<sup>12</sup> Concerns were also raised over the activity of the National Agency on Corruption Prevention (NAZK), which is in charge of monitoring the process of declaration of assets by civil servants. As of June 2018, the number of e-declarations checked by NAZK was unacceptably small (around 330 out of more than 1m declarations in the database).<sup>13</sup>

Unlike efforts on anti-corruption and judicial reform, public administration reform has seen substantial progress in Ukraine. In 2017, a reorganisation of the ministries was launched. Directorates in charge of policy development, strategic planning and European integration were created in 10 pilot ministries, two government agencies and in the Secretariat of the Cabinet of Ministers of Ukraine. The selection process for directors-general drew lessons learned from the selection of state secretaries at the ministries back in 2016.

By the end of 2017, more than 800 positions had been created for reform specialists, and the EU has earmarked more than €100m to support the hiring of such specialists until 2020. In the area of administrative services delivery and open data development, the government has introduced 35 e-services for citizens and businesses (registering service portals, social services, services for construction, etc.), and the open data portal, data.gov.ua, was launched in 2017.<sup>14</sup> Ukraine was placed 31st (out of 94 ranked countries) in the Global Open Data Index.<sup>15</sup>

The Human Rights Dialogue between Ukraine and the EU is the main format for discussion of a wide spectrum of issues pertaining to human rights and freedoms. It traditionally takes place once a year (in Kyiv in June 2017 and in Brussels in May 2018).

12 *Why Ukraine's Anti-Corruption Drive Is Failing*, Tetyana Ogarkova, Atlantic Council, 19 April 2018, <http://www.atlanticcouncil.org/blogs/ukrainealert/why-ukraine-s-anti-corruption-drive-is-failing>

13 *З такими темпами НАЗК перевірить всі декларації не раніше, ніж через 3600 років, – експерти*, (At this Pace, NAZK Will Need 3,600 Years to Check All Declarations, Say Experts), Reanimation Package of Reforms, 19 July 2018, <https://rpr.org.ua/news/z-takymy-tempamy-nazk-pereviryt-vsi-deklaratsiji-ne-ranishе-nizh-через-3600-rokiv-eksperty/>

14 *Рекформа державного управління – важлива складова європейського порядку денного України*, - Олександр Саєнко (The Reform of Public Administration is an Important Part of the European Agenda of Ukraine, Says Oleksandr Saenko), Minister of the Cabinet of Ministers of Ukraine, 28 March 2018, <https://www.kmu.gov.ua/ua/news/reforma-derzhavnogo-upravlinnya-vazhliva-skladova-yevropejskogo-poryadku-dennogo-ukrayini-oleksandr-sayenko>

15 *Global Open Data Index*, <https://index.okfn.org/place/ua/>

11 The EU also lacked a clear position on the shape of the Anti-Corruption Court. On the side of EU officials, there was discussion on the creation of special anti-corruption chambers within the existing court system.

The top item on the agenda has been the deterioration of human rights in Crimea since its illegal annexation by Russia and in the areas of Donbass no longer under the control of the government of Ukraine. Both Kyiv and Brussels routinely call for the immediate release of all illegally detained Ukrainian citizens in Russia and the Crimean peninsula.

Another issue directly connected to the Russian aggression is the public policy of Ukraine towards the protection of the human rights of internally displaced persons (IDPs).<sup>16</sup> In 2017-2018, the focus was on the active work of the Ministry for Temporarily Occupied Territories and IDPs, established in 2016. In November 2017, a three-year strategy of integration of IDPs and implementation of long-term solutions to internal displacement was approved by the Ukrainian government, but more work has to be done on the adoption of the related Action Plan and its implementation.

The EU has attached special attention to the electoral process in Ukraine in the run-up to the election year of 2019. Despite constant reminders from the side of the EU, the parliament failed to renew the Central Election Commission (CEC) with a balanced political representation until 18 September 2018 when it first voted to increase the composition of the CEC from 15 to 17, then on 20 September appointed 14 new members to replace the 13 members whose terms had expired (in the case of 12 of these, their terms had expired in June 2014). Two existing members retained their posts as their term of office expires in 2021. The new CEC has 16 members, leaving one post unfilled.<sup>17</sup>

Freedom of speech and media also featured on the bilateral Human Rights Dialogue agenda in 2017. Against the backdrop of the disclosure by Myrotvorets website<sup>18</sup> in May 2016 of the personal data of journalists who had worked (or received accreditation to work) on the conflict in Donbass, the EU highlighted the issue of the safety of journalists and media outlets in Ukraine.

16 As of November 2017, 1,504,015 internally displaced persons (IDPs) had been registered, displaced from Donetsk and Luhansk oblasts, the Autonomous Republic of Crimea and the city of Sevastopol.

17 *Parliament Approved a New Composition of the CEC*, *Ukrainska Pravda*, 20 September 2018, <https://www.pravda.com.ua/news/2018/09/20/7192708/>

18 <https://psb4ukr.org/>

On 7 November 2018, President Poroshenko refused to accept the resignation of the Prosecutor-General, Yuriy Lutsenko, following criticism of his handling of a probe into the death of an anti-corruption activist. Civil rights activist Kateryna Handziuk, who was attacked with sulphuric acid, died of her wounds on 4 November. A city council member and an adviser to the mayor in the town of Kherson, Handziuk had often accused local police officers of corruption. Five suspects, including a police officer, were arrested for their alleged involvement in the attack. Lutsenko submitted his resignation a day after Parliament refused to back calls for his dismissal.<sup>19</sup>

An open letter by 75 NGOs, published by the Kyiv-based Human Rights Information Centre on 5 November, had criticised the “apparent failure” of Ukraine’s law enforcement system to investigate attacks on civil society activists, and called on Interior Minister Arsen Avakov, as well as Lutsenko, to resign, charging that they had “sabotaged reform of law enforcement agencies” in Ukraine.<sup>20</sup> In an EU report on implementation of the Association Agreement, presented to Prime Minister Hroysman on 9 November 2018, the EU emphasised that Ukraine’s authorities must properly investigate attacks against civil society activists and punish the perpetrators.<sup>21</sup>

Non-discrimination policy reappeared on the agenda of EU-Ukraine dialogue amid concerns over the rights of national minorities, including language rights in the context of the Law on Education in 2017. Ukraine committed to fully take into account the Venice Commission assessment of the law, but the changes had still not been considered by the Parliament by the end of December 2018.<sup>22</sup>

19 *Poroshenko Refuses to Sack Prosecutor-General Over Activist’s Death*, Radio Free Europe/Radio Liberty, 9 November 2018, <https://www.rferl.org/a/poroshenko-refuses-to-sack-prosecutor-general-over-activist-death/29592343.html>

20 *Statement of the Coalition for the Protection of Civil Society Regarding Kateryna Handziuk’s Assassination*, Human Rights Information Centre, 5 September 2018, [https://humanrights.org.ua/en/material/preview/vbivstvo\\_kati\\_gandziuk\\_aktivisti\\_vimagajut\\_vidstavki\\_lucenka\\_i\\_avakova](https://humanrights.org.ua/en/material/preview/vbivstvo_kati_gandziuk_aktivisti_vimagajut_vidstavki_lucenka_i_avakova)

21 *Association Implementation Report on Ukraine, SWD (2018) 462 final*, European Commission and EEAS, 7 November 2018, [https://eeas.europa.eu/headquarters/headquarters-homepage/53485/association-implementation-report-ukraine\\_en](https://eeas.europa.eu/headquarters/headquarters-homepage/53485/association-implementation-report-ukraine_en)

22 *Opinion on the Provisions of the Law on Education of 5 September 2017 (CDL-AD(2017)030)*, Venice Commission, Council of Europe, 11 December 2017, [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2017\)030-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2017)030-e)

Ukraine has made some steps forward in the promotion of gender equality. In 2017, a Government Commissioner for Gender Equality Policy was appointed, and legislative changes were introduced with regard to combating violence against women and domestic violence. The long-standing requests by the EU to ratify the Istanbul Convention<sup>23</sup> and the Rome Statute of the International Criminal Court have not been addressed by Ukraine.<sup>24</sup>

## FROM ACTION PLAN TO ROADMAP FOR ASSOCIATION AGREEMENT IMPLEMENTATION

According to the government's own report on implementation of the Association Agreement between Ukraine and the EU in 2017, the parliament fulfilled only 30% of the commitments envisaged in the AA, central public authorities managed to fulfil 42% and other public institutions 50%.<sup>25</sup>

In 2017, only 23 draft laws from the European integration package were adopted by the parliament. The slow pace of adoption caused significant delays in the implementation of the commitments made by Ukraine.<sup>26</sup>

23 The Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence was adopted by the Council of Europe Committee of Ministers on 7 April 2011. It was opened for signature on 11 May 2011 at the Committee of Ministers in Istanbul, and it entered into force on 1 August 2014. <https://www.coe.int/en/web/istanbul-convention>

24 Joint Press Release: EU-Ukraine Human Rights Dialogue, European External Action Service (EEAS), 31 May 2018, [https://eeas.europa.eu/headquarters/headquarters-homepage/45671/joint-press-release-eu-ukraine-human-rights-dialogue\\_pt](https://eeas.europa.eu/headquarters/headquarters-homepage/45671/joint-press-release-eu-ukraine-human-rights-dialogue_pt)

25 Report on the Implementation of the Association Agreement between Ukraine and the European Union in 2017, Government Office for Co-ordination of European and Euro-Atlantic Integration, the Office of Deputy Prime Minister of Ukraine for European and Euro-Atlantic Integration, 2018, <https://www.kmu.gov.ua/storage/app/media/uploaded-files/Report%20on%20implementation%20of%20the%20Association%20Agreement%20between%20Ukraine%20and%20the%20European%20Union%20in%202017.pdf>

26 Скільки законів має ухвалити Рада в рамках асоціації з ЄС (How Many Laws has the Rada in the Framework of Association with the EU), Slovo I Dilo. Analytical Portal, 18 May 2018, <https://www.slovoidilo.ua/2018/05/18/infografika/polityka/skilky-zakoniv-maye-uxvalyty-rada-ramkax-asociazaciyi-yes>

## Removing Roadblocks that Hold Back the Quality of the Law-making Process

A comprehensive study on the influence of the legislative procedure with regards to the process of implementation of the Association Agreement with the EU was conducted by the Better Regulation Delivery Office. Experts focused on the existing legislation that regulates the procedures for drafting and approving laws and regulatory acts. The study also screened the compliance of draft regulations with EU laws.

The weak points of the procedures were identified. In the drafting of legal acts, obstacles included unco-ordinated action plans, translation problems, and low skills in norms-making. Unrealistic deadlines, along with poorly arranged public consultations and low political interest, challenged monitoring and administration processes. In terms of compliance with EU legislation and legal procedures, hurdles included differences in priorities between the parliament and the government, the absence of a unified plan, the lack of a mechanism to verify if draft laws initiated by MPs are in compliance with EU legislature, and a low level of political interest towards the AA implementation.<sup>27</sup>

EU institutions recognised the progress achieved in a number of domains of the AA/DCFTA implementation, namely, phytosanitary measures, energy and energy efficiency, environment, and digital and financial markets. But, at the same time, the Commission stressed that more work had to be done in areas of transport, intellectual property, customs and taxation. The poor co-ordination between the government and the parliament has often been indicated as a bedrock of the problem.<sup>28</sup>

After the autumn of 2017, and the commencement of full application of the AA, various shortcomings in the implementation process became evident, which prompted closer attention to the need to establish internal mechanisms for interdepartmental co-ordination between government institutions. In October 2017, the Cabinet of Ministers approved the Action Plan for Implementation of the Ukraine-EU Association Agreement. Along with the Action Plan, a special monitoring procedure was approved. The Action Plan foresees more than 2,000 concrete tasks to be achieved and around 5,000 steps to be taken. The Indicative plan for the translation of EU legislation is an indispensable part of the AA implementation. During 2017-2018, the Government Office for European and Euro-Atlantic Integration has to deliver translation of around 418 legal acts of the EU.<sup>29</sup>

In February 2018, to reinvigorate the implementation process, the Cabinet of Ministers and the parliament adopted the Roadmap for the Legislative Support for Implementation of the Association Agreement between Ukraine and the EU for 2018-2019. This document lists 57 draft laws that should be considered by the Parliament within two years.<sup>30</sup> In April 2018, the Cabinet of Ministers of Ukraine approved the 2018 Action Plan for the implementation of the 2018-2021 Strategy for Communicating European Integration. Along with that, a special Co-ordination Council was established under the Deputy Prime Minister for European and Euro-Atlantic Integration of Ukraine, Ivanna Klympush-Tsintsadze. The Action Plan aims at increasing the awareness of Ukrainian citizens about the opportunities in the framework of enhanced co-operation with the EU.<sup>31</sup>

27 BRDO *Analysed the Impact of Legislative Procedure for Implementation of the Association Agreement, Better Regulation Delivery Office*, 13 April 2017, <http://en.brdo.com.ua/news/brdo-analyzed-impact-legislative-procedure-implementation-association-agreement/>, Іванна Климпуш-Цинцадзе закликала міністерства та відомства активізувати процес наблизення вітчизняного законодавства до права ЄС (Ivanna Klympush-Tsintsadze Urged Ministries and Agencies to Intensify the Process of Approximation of Domestic Legislation to EU Law) Government of Ukraine, 26 May 2017, <https://www.kmu.gov.ua/ua/news/250019562>

28 Мінгарелі про УА з Україною: Київ відстає від графіка проведення реформ (Mingarelli about the AA – Kyiv Lags Behind the Reform Implementation Schedule), Ukrainian National News, 12 December 2017, <https://www.unn.com.ua/uk/news/1704075-mingarelli-pro-ua-z-ukrayinoyu-kiyiv-vidstaye-vid-grafika-provedennya-reform>

29 Затверджений Урядом План заходів з виконання Угоди про асоціацію прискорить її виконання, – Іванна Климпуш-Цинцадзе (The Government Approved an Action Plan to Accelerate the Implementation of the Association Agreement – Ivanna Klympush-Tsintsadze), Government of Ukraine, 25 October 2017, <https://www.kmu.gov.ua/ua/news/250372246>

30 Government and Parliament Approved the Roadmap for the Implementation of the Association Agreement with the EU, Information and Communication Department of the Secretariat of the Cabinet of Ministers of Ukraine (CMU), 28 February 2018, [http://old.kmu.gov.ua/kmu/control/en/publish/article?art\\_id=250591122&cat\\_id=244314975](http://old.kmu.gov.ua/kmu/control/en/publish/article?art_id=250591122&cat_id=244314975)

31 Government Approved the Action Plan for the Implementation of the Strategy for Communicating European Integration, Office of Deputy Prime Minister of Ukraine, 25 April 2018, <https://www.kmu.gov.ua/en/news/uryad-zatverdiv-plan-zahodiv-z-realizaciyi-strategiyi-komunikaciyi-yevrointegraciyi>



A big hurdle on the path to integration with the EU has been the absence of a mechanism that would prevent the parliament from putting to a vote initiatives that run counter to Ukraine's commitments under the AA. This could be addressed by introducing changes to the parliamentary regulations with a view to increasing the role of the Committee on European Integration.<sup>32</sup>

32 Іванна Климпуш-Цинцадзе: *Треба унеможливити*

Another challenge has been posed by the low quality of the draft laws submitted to the parliament.

*законодавчі ініціативи, що суперечать євроінтеграції, Служба Віце-прем'єр-міністра України, опубліковано (Ivanna Klymush-Tsintsadze: Legislative Initiatives that Contradict European Integration Must be Rendered Impossible), Office of Deputy Prime Minister of Ukraine, 12 December 2017, <https://www.kmu.gov.ua/ua/news/ivanna-klmush-cincadze-treba-unemozhliviti-zakonodavchi-iniciativi-sho-superechat-yevrointegraciyi>*

## Diplomatic Engagement to Strive for EaP+

Three states were actively engaged in preparation of a joint position ahead of the Eastern Partnership Summit in 2017. Many consultations took place on the level of deputy foreign ministers during the course of the year. As a result, a joint position was developed by Georgia, Moldova, and Ukraine, proposing clear steps for a future vision of the Eastern Partnership, a position which received positive feedback from the EU side.<sup>33</sup>

To some extent, these steps were reflected in the European Parliament's recommendations to the Council, the Commission and the EEAS on the Eastern Partnership in the run-up to the EaP Summit in Brussels on 24 November 2017. A declared model of EaP + proposed the same approach for advanced partner states, namely the possibility to join a customs union with the EU, as well as the energy union, digital union and Schengen area.

The EP recommendations called for the establishment of a trust fund for Ukraine, Georgia, and Moldova based on the best practices of multi-donor instruments.<sup>34</sup> Unfortunately, the final declaration of the EaP Summit was less ambitious, leaving aside a range of innovations that could have driven closer integration.

In 2017, for the first time the EURONEST Parliamentary Assembly session was held in Ukraine on the initiative of the Ukrainian side. Ad hoc discussion among the three AA states accompanied the meeting, and in 2018 the parliamentary dimension gained additional track with the creation of the "Georgia-Moldova-Ukraine" Inter-Parliamentary Assembly.

In November 2017, the EU extended the mandate of the European Union Advisory Mission for Civilian Security Sector Reform (EUAM)<sup>35</sup> to Ukraine until May 2019 with a budget of €32m.

33 Україна, Грузія, Молдова: *спільні інтереси та бачення розвитку регіональної співпраці, Геннадій Максак, Портал зовнішньої політики (Ukraine, Georgia, Moldova: Common Interests and Vision for the Development of Regional Co-operation), Hennadiy Maksak, Foreign Policy Portal, 2 May 2018, <http://fpp.com.ua/ukrayina-gruziya-moldova-spilni-interesy-ta-bachennya-rozvytku-regionalnoyi-spivpratsi/>*

34 *European Parliament Recommendation of 15 November 2017 to the Council, the Commission and the EEAS on the Eastern Partnership, in the Run-up to the November 2017 Summit, European Parliament, 2017/2130(INI), <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P8-TA-2017-0440+0+DOC+XML+V0//EN&language=EN>*

35 Launched in 2014, EUAM is actively involved in facilitating the security sector reform process in Ukraine.

Co-operation with Western partners (USA, United Kingdom, Canada, Lithuania, and Poland) in the defence and security spheres also embarked on a positive trajectory, and there were tangible results concerning Ukraine's path towards Euro-Atlantic integration. Out of 375 actions, prescribed in the Ukraine-NATO Annual national co-operation programme, 307 were implemented (almost 82%), 49 were in process, and only 19 were unfulfilled.<sup>36</sup>

As a non-permanent member in the UN Security Council (2016-2017), Ukraine was active in drawing attention to the ongoing conflicts in Europe.<sup>37</sup> The international platform, "Friends of De-occupation of Crimea", initiated by President Poroshenko at the UN General Assembly in 2017, became important in terms of co-ordinating efforts to adopt the resolution "The situation of human rights in the Autonomous Republic of Crimea and the city of Sevastopol (Ukraine)".<sup>38</sup> The Resolution condemned violations and discrimination against the residents of the temporarily occupied Crimea by the Russian occupation authorities.<sup>39</sup>

The Ukraine-Baltic Forum of the Heads of Governments became another important and symbolic event. On 6 April 2017, in a joint final statement the heads of governments of Ukraine, Estonia, Latvia, and Lithuania declared their support for the territorial integrity of Ukraine, condemnation of Russia's aggression against Ukraine, encouragement for further assistance to Ukraine from the EU and NATO, and support for the Euro-Atlantic course of Ukraine, AA ratification, and a visa-free regime.

36 Україна виконала майже 82% заходів Річної національної програми співробітництва з НАТО на 2017 рік Служба Віце-прем'єр-міністра України, опубліковано (*Ukraine Fulfilled Almost 82% of the Activities of the Annual National Programme of Co-operation with NATO in 2017*), Office of Deputy Prime Minister of Ukraine, 5 March 2018, <https://www.kmu.gov.ua/ua/news/ukrayina-vikonala-majzhe-82-zahodiv-richnoyi-nacionalnoyi-programi-spivrobitnictva-z-nato-na-2017-rik>

37 *Foreign Minister of Ukraine Pavlo Klimkin to Chair the United Nations Security Council Open Debate on Conflicts in Europe, Permanent Mission of Ukraine to United Nations in New York, 20 February 2017, <https://ukraineun.org/en/press-center/169-foreign-minister-of-ukraine-pavlo-klimkin-to-chair-the-united-nations-security-council-open-debate-on-conflicts-in-europe/>*

38 *Ukrainian Prism: Foreign Policy 2017*, Foreign Policy Council "Ukrainian Prism", Friedrich Ebert Foundation, 2018, [http://prismua.org/wp-content/uploads/2018/04/A5-prizma2017\\_eng\\_web.pdf](http://prismua.org/wp-content/uploads/2018/04/A5-prizma2017_eng_web.pdf)

39 *Situation of Human Rights in the Autonomous Republic of Crimea and the City of Sevastopol, Ukraine*, Resolution of the UN General Assembly, A/RES/72/190, 19 December 2017, [https://digitallibrary.un.org/record/1469977/files/A\\_RES\\_72\\_190-EN.pdf](https://digitallibrary.un.org/record/1469977/files/A_RES_72_190-EN.pdf)

Parliamentary parties that employed EU-oriented rhetoric while campaigning in elections have often taken a back seat when it comes to passing necessary legislation.<sup>40</sup> Moreover, the various political factions stalled for quite some time before agreeing on a candidate for the position of chairperson of the parliamentary committee on European Integration.

## YEAR OF SUMMITS: DIALOGUE TOWARDS ENHANCED POLITICAL AND SECURITY CO-OPERATION

Compared with previous years, 2017 can be considered as a year of enforced and productive relations between Ukraine and the EU. The President paid a visit to the capital of the EU twice (in June and in November). The Prime Minister also paid two visits to Brussels (in February and December), and the 19th Ukraine-EU Summit was held in Kyiv on 12-13 July 2017. The meeting took place to the backdrop of two symbolic landmarks: the granting of the visa-free regime between the Schengen countries and Ukraine on 11 June and the ratification of the Association Agreement by the EU on 11 July, just on the eve of the Summit. That decision paved the way for the AA's full entry into force on 1 September 2017.

Political dialogue with the other two Eastern Partnership countries to have signed Association Agreements with the EU, namely Georgia and Moldova, intensified, while Ukraine's relations with the other three EaP countries evolved less positively, especially when it came to co-operation in multilateral formats. For instance, Belarus and Armenia often watered down the political messages Ukraine sought to convey in joint statements. That was partly the case with the EaP Summit Declarations in Riga (2015) and Brussels (2017) respectively.

40 Іванна Климпуш-Цинцадзе: Деякі політичні партії, які пройшли в Парламент під гаслами європейської інтеграції, дуже швидко забули про свої обіцянки, (Ivanna Klymush-Tsintsadze: Some Political Parties that Entered Parliament under the Slogans of European Integration Quickly Forgot their Promises), Government of Ukraine, 20 June 2017, <https://www.kmu.gov.ua/ua/news/250082522>

## INCREASING TRADE FLOWS CONFIRM DEEPER ECONOMIC INTEGRATION WITH EU

Besides the entry into full force of the AA and the launch of the visa-free regime, the year 2017 and much of 2018 also witnessed robust progress in economic integration. Official negotiations started on the preparation of the Agreement on Conformity Assessment and Acceptance of Industrial Products (ACAA), which is essential for the free circulation of industrial goods with the EU.

One area where Ukraine needs to catch up not only with EU member states, but also with a number of EaP countries, is the business environment. In the World Bank *Doing Business* index, Ukraine was ranked 80th (out of 190 countries) in 2017. In 2018, Ukraine improved to 76th place, but remained far behind Georgia (9th), Belarus (38th), and Moldova (44th).<sup>41</sup>

In February 2017, the parliament ratified the Agreement between the government of Ukraine and the EU on the participation of Ukraine in the EU programme, "Competitiveness of Enterprises and Small and Medium-sized Enterprises (COSME)". The programme opens access for Ukraine to the overall budget of €2.3bn for the 2014-2020 period. Ukraine became the eighth country outside the EU and the second in the EaP region (after Armenia) to join this programme.<sup>42</sup>

After intensive preparatory work in 2017, on 1 February 2018 Ukraine became a full-fledged member of the Regional Convention on Pan-Euro-Mediterranean Preferential Rules of Origin (PEM Convention).<sup>43</sup>

In July 2017, the EU Council endorsed the decision on temporary autonomous trade measures (ATM) in favour of Ukraine as a gesture of support for the economic reforms process. The decision entered into force in October 2017 and envisages improved access to the EU market for Ukrainian exporters

41 *Ease of Doing Business in Ukraine*, Doing Business, World Bank, 2017, <http://www.doingbusiness.org/data/exploreconomies/ukraine>

42 *Ukraine Got Access to Overall Budget of €2.3 billion of COSME Programme*, Ministry of Economic Development and Trade of Ukraine, 22 February 2017, [http://old.kmu.gov.ua/kmu/control/en/publish/article?art\\_id=249762560](http://old.kmu.gov.ua/kmu/control/en/publish/article?art_id=249762560)

43 The PEM Convention is an EU instrument to facilitate trade co-operation. It provides for identical rules of origin, allowing for diagonal cumulation between the parties to the Convention.

concerning a range of agricultural and industrial products for a three-year period.<sup>44</sup>

At the same time, despite the active engagement of the EU Delegation to Ukraine, the issue of Ukraine's ban on the export of timber (ostensibly to prevent deforestation, but a policy that has failed to prevent the illegal smuggling trade in timber) remained unresolved. In 2017, a number of populist attempts were initiated by protectionist MPs to introduce legislature that contradicts the AA/DCFTA (for instance, the "Buy Ukrainian, Pay Ukrainians" bill, which was passed at first reading on 7 December 2017<sup>45</sup>). Subsequently, the bill was not adopted following criticism from the side of the EU and of top Ukrainian officials.

In 2017, the EU was the destination of 40.5% of Ukraine's exports, and the source of 41.9% of imports to Ukraine. In numbers, Ukraine exported goods to the EU worth US\$17.5bn and services worth US\$3.3 bn. In the first half of 2018, the export of Ukrainian goods and services reached US\$11.2bn, an increase of US\$1.8 compared with the same period in 2017.<sup>46</sup> Poland, Italy, Germany and the Netherlands were among key markets for Ukrainian exports. In 2017, EU investment in Ukraine amounted to US\$1.24bn, amounting to 66.5% of the total flow of foreign direct investment (FDI) into the economy.<sup>47</sup>

44 The ATM continue the preferential trade regime agreed under the AA and introduced in 2014 as temporary measures.

45 *How 'Made in Ukraine' Promoters in Rada Decided to Kill Ukraine's Pride*, Maksym Shevchenko, Unian, 8 December 2017, <https://economics.unian.info/2287726-how-made-in-ukraine-promoters-in-rada-decided-to-kill-ukraines-pride.html>

46 *Річниця вступу в силу в повному обсязі Угоди про асоціацію Україна-ЄС (The Anniversary of the Full Entry into Force of the EU-Ukraine Association Agreement)*, EU-Ukraine Euro-Integration Portal, 3 September 2018, <https://eu-ua.org/infografika/richnycya-vstupu-v-sylu-v-povnomu-obsyazi-ugody-pro-asociaciyu-ukrayina-yes>

47 *Частка ринку ЄС в загальному експорті України в 2017 році становила 40,5%*, - *Держстатб (The Share of the EU Market in the Total Exports of Ukraine in 2017 Amounted to 40.5% - State Statistics Service)*, Department of Information and Communication of the Secretariat of the Cabinet of Ministers of Ukraine, 28 February 2018, <https://www.kmu.gov.ua/ua/news/chastka-rinku-yes-v-zagalnomu-eksporti-ukrayini-v-2017-roci-zroslo-405-derzhstat>

## AMBITIONS TOWARDS CIRCULAR ECONOMY

Ukraine has achieved convincing progress in the development, adoption and updating of necessary environmental and climate policies. The framework Environmental Strategy, adopted as legislation at the end of 2010 as a part of implementation of the Association Agenda, continues to be updated with new targets and indicators to meet the ambitious environmental goals of the Association Agreement.

Fundamental reform of environmental governance is underway to provide for the integration of environmental policy into all economic sectors, establishing new mechanisms and instruments and strengthening existing ones in line with international standards. Ecological inspections of businesses had been carried out in line with the law "on Temporary Peculiarities of Implementation of State Supervision (Control) Measures in the Field of Economic Activity".

However, a moratorium on the inspections was introduced by the Cabinet in 2016 and continued through 2017, badly weakening the effectiveness of environmental control and diminishing the influence of the State Ecological Inspectorate. In February 2018, ecological inspections were partially exempted from the moratorium.

Deregulation has become a priority in the decision-making process of the Cabinet, but without environmental safeguards such a policy poses a growing hazard to the environment and public health, because an absence of controls creates a vacuum, leaving irresponsible behaviour on the part of businesses and citizens unchecked. This situation clearly called for urgent institutional change in the environment protection system, which was initiated by the Ministry.

The Reform Support Team (RST) was established by the Ministry of Ecology and Natural Resources in summer 2017. In May 2017, the Cabinet approved a concept for the reform of the system of state ecological supervision and control. The purpose was to create an effective state system for preventing environmental violations and monitoring the state of the environment, broadly engaging the public in supervision, and creating a single



integrated state environmental monitoring and supervisory body.

The main challenges in environmental policy include removal of the conditions for corruption, the need to significantly strengthen technical capacity (including the purchase and installation of new equipment and launching of new laboratories), and to concentrate the environmental inspection function in one service (currently it is dispersed among several control bodies subordinated to different central authorities). It is necessary likewise to concentrate the environmental monitoring function.

Reforms in environmental policy have included progress in water management, including the preparation of Water Agency reform and a draft water strategy. The regulatory and methodological basis for River Basin management planning and the establishment of Basin Councils (multi-stakeholder councils in accordance with the Water Framework Directive) were developed and approved.

In November 2017, the government approved the Waste Management Strategy based on EU principles. This strategy establishes the basis for the development of a circular economy. Following the government's approval at the end of December 2016 of the Concept for State Climate Change policy until 2030, its 2017 implementation plan was also approved. The plan includes the adoption of a Climate Change Adaptation Strategy in 2020 and some adaptation measures for individual economic sectors in 2019.

## OPENING EUROPE

On 11 June 2017, the visa-free regime came into force, enabling Ukrainians to travel to the Schengen zone for up to 90 days in any 180-day period without any visa.

In the first 12 months of the visa-free regime, around 555,000 Ukrainian citizens took advantage of the opportunity to travel to the EU without having to apply for a visa.<sup>48</sup> During

48 *За рік безвізу прикордонники оформили 555 тисяч українців за спрощеною процедурою (In the First Year of Visa-Free Travel, 555,000 Ukrainians Crossed the Borders Using Simplified Procedures)*, State Border Guard Service of Ukraine, 11 June 2018, <https://dpsu.gov.ua/ua/news/Za-rik-bezvizu-prikordonniki-oformili-555-tisyach-ukrainciv>

this period, there were around 20m border crossings to the EU by Ukrainian citizens. In autumn 2017, Kyiv submitted the first National Report on Compliance with the Criteria of the EU Visa Liberalisation Action Plan for Ukraine. The European side published its First Report under the Visa Suspension Mechanism in December 2017.<sup>49</sup>

In areas of culture and science, exchanges between the EU and Ukraine continued to flourish, and Ukraine benefited from active participation in EU programmes, in particular Creative Europe and Horizon 2020.

According to the EU Attitudes Survey conducted in 2017 by EU Neighbours East/ECORYS, of those Ukrainian citizens aware of EU financial support to their country, in the view of 36%, the financial support from the EU has been effective; in the view of 51%, it has not been effective.<sup>50</sup> In the 2018 survey, 43% considered the support effective, although 52% still considered that it was not effective.

Surveyed about the most pressing problems facing their country, Ukrainians cited corruption as the most pressing problem the country faces (45%). As in the other Eastern Partnership countries, unemployment (37%) was cited as one of the highest concerns, along with other economic concerns – low living standards/poverty (37%), economic crisis (35%) and low salaries/pensions (33%) – and security issues/war (37%). In the 2018 survey, economic concerns were even more prevalent – with 45% citing low living standards/poverty, while corruption was cited by only 33% of respondents.<sup>51</sup>

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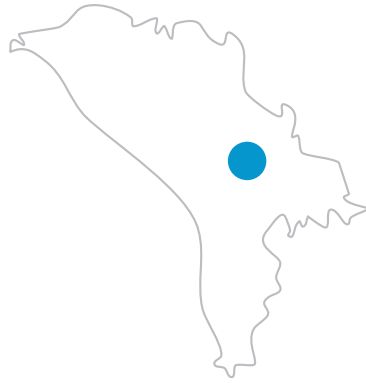
49 *Report on the Implementation of the Association Agreement between Ukraine and the European Union in 2017*, Government Office for Co-ordination of European and Euro-Atlantic Integration, Office of Deputy Prime Minister of Ukraine for European and Euro-Atlantic Integration, 2018, <https://www.kmu.gov.ua/storage/app/media/uploaded-files/Report%20on%20implementation%20of%20the%20Association%20Agreement%20between%20Ukraine%20and%20the%20European%20Union%20in%202017.pdf>

50 *Annual Survey Report: Regional Overview, 2nd Wave (Spring 2017)*, OPEN Neighbourhood – Communicating for a Stronger Partnership: Connecting with Citizens Across the Eastern Neighbourhood, EU Neighbours East/ECORYS, June 2017, [https://www.euneighbours.eu/sites/default/files/publications/2017-10/EUNEIGHBOURSeast\\_AnnualSurvey2017report\\_EaP\\_OVERVIEW\\_0.pdf](https://www.euneighbours.eu/sites/default/files/publications/2017-10/EUNEIGHBOURSeast_AnnualSurvey2017report_EaP_OVERVIEW_0.pdf)

51 *Annual Survey Report: Ukraine. 3rd Wave (Spring 2018)*, OPEN Neighbourhood – Communicating for a Stronger Partnership: Connecting with Citizens Across the Eastern Neighbourhood, EU Neighbours East/ECORYS, June 2018, <https://www.euneighbours.eu/en/east/stay-informed/publications/opinion-survey-2018-ukraine>



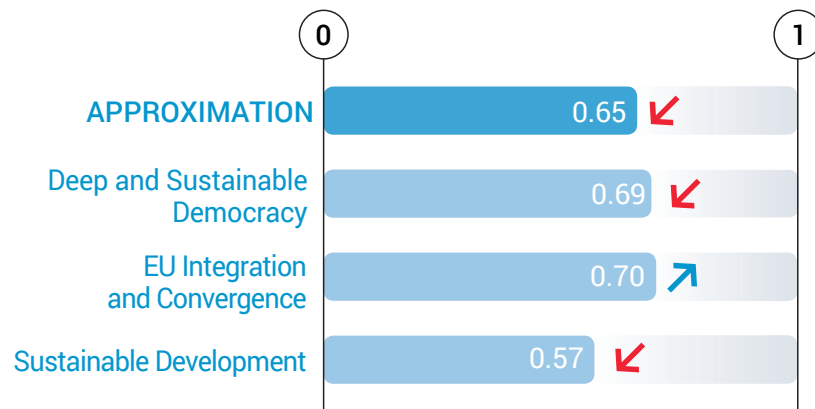




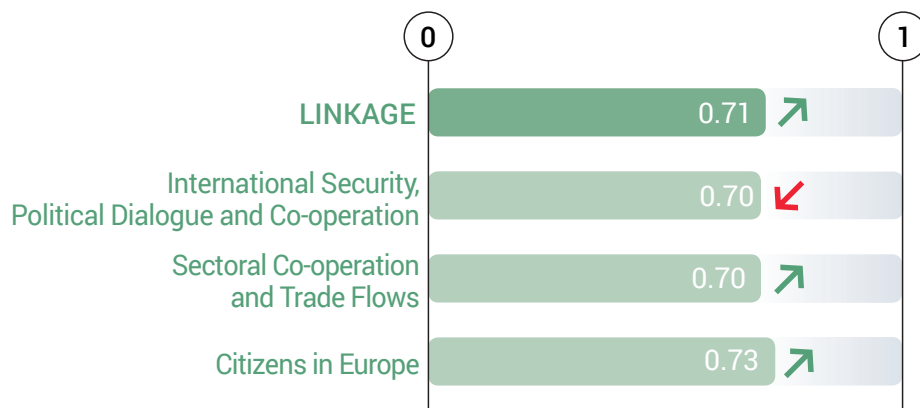
# MOLDOVA



## APPROXIMATION



## LINKAGE



# MOLDOVA

## TOP CHALLENGES FOR 2019

- The newly elected parliament should improve the election and political party legislation in line with the recommendations of the Venice Commission and the Office for Democratic Institutions and Human Rights of the Organization for Security and Co-operation in Europe (OSCE/ODIHR) to ensure free, fair and credible electoral processes in future parliamentary, local and presidential elections.
- Civil society must engage more actively in monitoring the implementation of public policies and of the commitments under the EU-Moldova Association Agreement.
- The EU should further strengthen the conditions underpinning the provision of financial assistance to Moldova, insisting on concrete qualitative results in fulfilling the commitments made by the government authorities under the Association Agreement and other strategic documents agreed with the EU.
- A re-orientation of EU financial assistance could support projects aiming to deliver direct benefits to citizens, and toward supporting domestic agents of democratic change (civil society, grassroots organisations and independent media) and small and medium-sized enterprises (SMEs).
- The EU, EU member states, and other development partners could enact, and apply, legal measures to increase their leverage to halt the democratic decline in Moldova and support the resumption of democratic reforms, including by extending to Moldova the reach of the Global Magnitsky Act.<sup>1</sup>

## FURTHER BACKSLIDING: FROM 'CAPTURED STATE' TO INCIPIENT AUTHORITARIAN STATE

Moldova's democracy has passed through difficult times during 2017-2018. Contrary to official statements on the government's solid

<sup>1</sup> In 2016, the US Congress enacted the Global Magnitsky Act, which allows the US government to sanction foreign government officials implicated in human rights abuses anywhere in the world. The initial Magnitsky Act, passed in 2012, was intended to punish Russian officials responsible for the death of Russian tax accountant Sergei Magnitsky in a Moscow prison in 2009. Several EU member states (including Estonia, Latvia, Lithuania, and the UK) have adopted similar legislation, and the Netherlands has launched an initiative for the EU Council to enact a legal instrument allowing for targeted sanctions to be applied to perpetrators of human rights violations without geographical limitations.

*Extension of Magnitsky Act to EU and Moldova: Between*

progress in implementing democratic reforms and its commitments under the EU-Moldova Association Agendas, in many areas the reforms stalled or even reversals were observed. The main concerns expressed by the EU at the EU-Moldova Association Council in March 2017<sup>2</sup> related to the independence and plurality of the media, the independence of judiciary and electoral reform. These concerns were either not addressed, or in some cases ignored.

Faced with the risk that it might lose political power in the parliamentary elections on 24 February 2019 to the emerging EU-oriented

*Promotion of Human Rights and Fighting Corruption*, Dionis Cenuşa, IPN, 10 December 2018, <http://ipn.md/en/special/95262>

<sup>2</sup> *Joint Statement Following the Third Association Council Meeting between the European Union and the Republic of Moldova*, Council of the EU, 31 March 2017, <http://www.consilium.europa.eu/en/press/press-releases/2017/03/31/statement-eu-moldova/>

opposition parties, “Dignity and Action” (PDA) and “Action and Solidarity” (PAS), the ruling Democratic Party (PDM) intensified its efforts to further increase its control over the legislature, executive and local government, while maintaining an outward appearance of democracy.

In May 2017, the PDM-controlled governing coalition broke apart after the Liberal Party (PL) left the government following the detention of several high-ranking PL politicians.<sup>3</sup> The Liberals accused Vladimir Plahotniuc, the PDM leader,<sup>4</sup> of having mobilised the Prosecutor’s Office against their members in response to the PL’s disagreement with the electoral reforms proposed by Plahotniuc’s PDM.<sup>5</sup>

Despite the end of the coalition, PDM consolidated its position in the parliament as MPs from PL and PLDM (Liberal Democratic Party of Moldova) defected to PDM in 2017, securing the party a comfortable informal parliamentary majority of 57 MPs in the 101-seat parliament (including earlier defections from the Communist Party and PLDM).<sup>6</sup>

PDM also strengthened its power at the local level by continuing to recruit incumbent mayors to the party. Mayors affiliated to opposition parties alleged that intimidation, the prospect of criminal cases being launched against them, and corruption on the part of local elected officials, were deployed to convince more than 300 mayors to join PDM.<sup>7</sup> The landslide victory of PDM candidates in the 2017 early mayoral elections in ten towns and villages further

3 Those detained included the first deputy chairman of the Liberal Party and Mayor of Chisinau, Dorin Chirtoacă, who was suspended from the office of mayor on 28 July 2017 until a final sentence was issued on corruption charges, and the Minister of Transport, Iurie Chirinciuc, who – also facing corruption charges – was dismissed as Minister on 30 May 2017.

4 After having been informal leader of the PDM from 2009, Plahotniuc was officially elected PDM chairman on 24 December 2016.

5 *Vlad Plahotniuc folosește Procuratura pentru a intimida oponenții politici – Mihai Ghimpu la APCE (Vlad Plahotniuc Uses Prosecutor to Intimidate Political Opponents – Mihai Ghimpu at PACE)*, Infotag, 12 October 2017, <http://www.infotag.md/politics-ro/253424/>

6 *Migrația deputaților. De unde și către cine au plecat deputații din actualul Parlament? (Migration of Deputies. From Where and to Whom did the Deputies of the Current Parliament Go?)*, Ziarul de Gardă, 23 September 2017, <https://www.zdg.md/stiri/stiri-politice/de-unde-si-catre-cine-au-migrat-deputatii-din-actualul-parlament>

7 *Cum se pregătesc democrații de alegeri? Primar: „Treci la PDM și ai scăpat de probleme” (How do Democrats Prepare for Elections? Mayor: ‘Switch to PDM and Your Problems Are Over’)*, TV8 Moldova, 25 January 2018, <http://tv8.md/2018/01/25/video-cum-se-pregatesc-democrati-de-alegeri-primar-treci-la-pdm-si-ai-scapat-de-probleme/>

increased PDM’s influence at the local level.<sup>8</sup> At the same time, the ruling party embarked on the introduction of controversial electoral reforms at a time when its own low ratings in the opinion polls meant that its prospects of passing the 6% threshold to enter parliament in the 2019 elections would not be assured under a wholly proportional party-list electoral system. During 2017, the PDM polled as the least popular parliamentary party when voters were asked for which party they would vote in a parliamentary election.

By May 2018, the Liberal Party, brought down by corruption scandals around its first deputy president and the mayor of Chisinau, Dorin Chirtoacă, had fallen to similar levels of unpopularity.<sup>9</sup>

Under the new electoral system, the 101 parliament seats would be filled in a mixed election system in which 50 seats would be won on a proportional party-list system and the remaining 51 would go to the victors in individual single-seat constituencies. The electoral reform was adopted hastily in July 2017, with total disregard towards the opinion of opposition parties and civil society and towards the recommendation of the Venice Commission of the Council of Europe to refrain from changing the electoral system in the current domestic conditions.

In protest, civil society and opposition parties organised several anti-government protests, calling for the annulment of the electoral reform, demonopolisation of the media market, depoliticisation of the public TV channel, and the return of the US\$1 billion, equivalent to 15% of Moldova’s GDP, stolen from three Moldovan banks in 2014 (which triggered anti-government protests from February 2015 to January 2016).<sup>10</sup>

These new protests were followed by a concerted smear campaign against the

8 *Alegeri locale: 10 reprezentanți ai PDM din 10 au câștigat mandatul de primar (Local Elections: 10 out of 10 Representatives of PDM Won Mayoral mandates)*, Ziarul de Gardă, 4 December 2017, <https://www.zdg.md/stiri/stiri-politice/alegeri-locale-10-reprezentanti-ai-pdm-din-10-aucastigat-mandatul-de-primar>

9 Survey by Institute for Public Policy, asking the question “If elections were to be held next Sunday for the Moldovan Parliament, which party would you not vote for in any circumstances?”, series of surveys carried out during April 2017-May 2018, [www.bop.ipp.md](http://www.bop.ipp.md)

10 *Hundreds Protest in Moldova Against New Electoral Law*, Radio Free Europe/Radio Liberty, 17 September 2017, <https://www.rferl.org/a/moldova-protest-chisinau-new-electoral-law/28740324.html>

opposition, independent media and civil society opposing the electoral reform, conducted by media holdings controlled by the ruling party and promulgated by PDM leaders in public speeches.<sup>11</sup>

## GEO-POLITICAL ALLIES OR FOES?

A (geo)political struggle was simulated between the allegedly pro-EU governing party of Vlad Plahotniuc and the pro-Russia Party of Socialists (PSRM) of President Igor Dodon, and it intensified during the course of 2017. This bid to position PDM as the leading pro-EU party against pro-Russia forces was sustained high on the political agenda and periodically inflamed whenever it was necessary to distract the attention of society and international partners from delays or distortions of reforms.

PDM rolled out the façade of an anti-Russia campaign in 2017, which included a prohibition on Russian propaganda, the expulsion of Russian diplomats following the poisoning of ex-spy, Sergei Skripal, in the UK in March 2018, and active lobbying for the adoption of an UN Resolution on withdrawal of the Russian military from Transnistria.

These steps were largely formal declarations rather than actions that tangibly hurt the interests of Russia in Transnistria. Notably, they did not reduce Moldova's dependency on Russian energy supplies or its exposure to Russian propaganda that continued to be disseminated through channels re-broadcast by media holdings owned by both PDM and PSRM.

On the opposite side, President Dodon very actively promoted a pro-Russia and anti-Western agenda, trying to bring Moldova back into Russia's orbit of influence.

During 2017, Dodon paid six official visits to Russia, including his first presidential official visit outside the country. Bypassing Moldova's government, he secured observer status for Moldova in the Russia-led trade bloc, the Eurasian Economic Union (EAEU). He also facilitated a relaxation of restrictions on Moldova's migrant workers in Russia after in

11 *Declaration on Shrinking Space for Civil Society in Moldova*, Legal Resources Centre from Moldova (LRCM) and 12 other CSOs, 12 September 2017, [https://crjm.org/wp-content/uploads/2017/09/2017-09-12\\_HDIM\\_declaration\\_CSOs1.pdf](https://crjm.org/wp-content/uploads/2017/09/2017-09-12_HDIM_declaration_CSOs1.pdf).

2014 Russia had largely banned their access to its labour market following Moldova's signing of the Association Agreement with the EU. There was also a moderate increase in exports of agricultural products to Russia after Russia lifted trade restrictions against Moldovan goods. As Dodon used these outcomes to strengthen his anti-Western rhetoric, in turn Plahotniuc's PDM claimed to be the sole champions of the pro-EU path of development against the Russian threat represented by PSRM.

Another area of simulated tension between the President and the ruling party in parliament was the struggle over presidential competences. Since his inauguration as President, opinion polls consistently ranked Dodon as the most popular politician in Moldova.<sup>12</sup> Counting on popular support, in spring 2017, Dodon called for a consultative referendum to expand his powers to dissolve the parliament and call early elections, but the proposal was overturned by the Constitutional Court. The Socialists (PSRM) protested at the court's ruling and launched a campaign to collect signatures to support the transition to a presidential regime.

Inter-institutional deadlock between the President and the government emerged after October 2017 because of the Dodon's refusal to appoint the nominated minister of defence in the reshuffled cabinet of the Prime Minister, Pavel Filip. The deadlock was solved by the Constitutional Court in a way that transformed the presidency into a decorative institution that could be easily turned off whenever the interests of the ruling party were challenged.<sup>13</sup>

The Constitutional Court decided to temporarily suspend the powers of the President and transfer presidential responsibilities to the Speaker of Parliament or the Prime Minister. This controversial ruling tightened even more Plahotniuc's grip on power and confirmed

12 *New Survey: Moldovans Pessimistic about Future of Youth; Cite Employment as Key Issue*, International Republican Institute, 29 March 2018. According to the IRI survey, 31% of respondents named Dodon as one of the most trusted politicians or public persons. [http://www.iri.org/sites/default/files/2018-3-29\\_moldova\\_poll\\_presentation.pdf](http://www.iri.org/sites/default/files/2018-3-29_moldova_poll_presentation.pdf)  
13 *The Court Has Ascertained the Circumstances Justifying the Interim Office of President of the Republic of Moldova in Nominating the Defence Minister*, Constitutional Court, 20 October 2017, <http://constcourt.md/libview.php?l=en&idc=7&id=1085&t=/Media/News/The-Court-Has-Ascertained-the-Circumstances-Justifying-the-Interim-Office-of-President-of-the-Republic-of-Moldova-in-Nominating-the-Defence-Minister>.

once again the political dependency of the Constitutional Court. The precedent set by the Constitutional Court was subsequently repeated every time Dodon refused to enact a piece of legislation or appoint a minister proposed by the ruling party, as it was in December 2017, when Dodon refused to appoint seven new ministers, and in early 2018, after the President refused to enact the law against Russian propaganda. The same happened in September 2018, when the court suspended his presidency over his refusal to appoint new ministers again,<sup>14</sup> and for the fifth time in December 2018 after Dodon's refusal to enact five laws, including the Law on the Audiovisual Code.<sup>15</sup>

Regardless of these confrontations between PDM and PSRM, Plahotniuc and Dodon collaborated on domestic political and economic matters. They worked together to promote electoral reform that would benefit both parties (given the financial backing for their parties, they stood to benefit from well-funded campaigns for the 51 seats elected on a majority vote in single-member constituencies) and limit the opposition parties' prospects in the 2019 parliamentary elections.

In August 2018, Dodon signed a controversial law on voluntary tax declarations, although in this case despite his own party's decision to boycott its adoption. Actively promoted by the PDM since 2016, the law – which would enable capital previously untaxed to be subject to a tax amnesty at a reduced price of only 3% (this was later increased to 6%)<sup>16</sup> – was adopted through a quick procedure in July 2018 after the EU halted the first disbursement of a €100m macro-financial assistance package. The law was heavily criticised by civil society and international development partners for legitimising theft, corruption and damaging the business climate.<sup>17</sup>

14 *Moldovan Top Court Rules Speaker or Premier May Issue Decree Appointing New Cabinet Members*, moldpres, 24 September 2018, <https://www.moldpres.md/en/news/2018/09/24/18008478>

15 The Constitutional Court's opinion ascertaining the circumstances justifying the interim office of President of the Republic of Moldova for exercising the constitutional obligation to promulgate certain laws, 10 December 2018, <http://www.constcourt.md/ccdocview.php?l=ro&tip=avize&docid=65>

16 Law no.243 as of 8 November 2018, <http://lex.justice.md/md/378181/>

17 *Tax Reform - An Attempt to Disguise the Amnesty of Dubious Capital?* Legal Resources Centre from Moldova (LRCM), 26 July 2018, [https://crjm.org/wp-content/uploads/2018/07/2018-07-26\\_NGOs-PositionPaper-Capital-Amnesty-MDA\\_eng.pdf](https://crjm.org/wp-content/uploads/2018/07/2018-07-26_NGOs-PositionPaper-Capital-Amnesty-MDA_eng.pdf)

The annulment of mayoral elections held in Chisinau in May 2018 and therefore of the victory of Andrei Nastase, the leader of the opposition, EU-oriented PDA and a fierce critic of PDM, was regarded both inside and outside the country as a clear sign of political control of the judiciary and a major step towards an oligarchic dictatorship. An administrative violation that would normally be subject to a fine of less than US\$100<sup>18</sup> instead drew a court ruling annulling the election.

The Supreme Court's decision to maintain the invalidation verdict and the subsequent passivity of the Central Election Commission (CEC) in managing this unprecedented situation strengthened the existing public perception of "state capture", raising fears that this was a dress rehearsal for a power seizure in the 2019 parliamentary and local elections.

The nullification of the freely expressed popular vote in Chisinau triggered a new wave of protests, led by the Committee of National Resistance Movement "ACUM" (NOW), comprised of the leaders of pro-EU opposition parties and leading civil society actors. The protesters demanded the validation of the results of the Chisinau mayoral elections, the abrogation of the mixed electoral system, and the resignation and prosecution of the judges who had invalidated the mayoral elections.

Although the general mood in public opinion considered Moldova to be heading in the wrong direction (73%)<sup>19</sup>, the protests did not resonate sufficiently to generate massive protests. The ruling party, assisted by its media holdings, had intensely exploited fatigue in society, underpinned by poverty and rampant corruption, and throughout 2017-2018 launched a number of populist programmes and initiatives, such as "First home 1-2-3 (for young families, public servants and families with children)", the communal roads programme, meals tickets initiative, salary increases for local public officials, or gift boxes for newborns. This went hand in hand with the ongoing denigration campaign against opposition parties.

18 The judgement issued by the first instance court and maintained by the higher-level courts annulled the results of the Chisinau mayoral election held in May 2018, based on an alleged call to voters on social media on Election Day.  
19 *New Survey: Moldovans Pessimistic about Future of Youth; Cite Employment as Key Issue*, International Republican Institute, 29 March 2018, [http://www.iri.org/sites/default/files/2018-3-29\\_moldova\\_poll\\_presentation.pdf](http://www.iri.org/sites/default/files/2018-3-29_moldova_poll_presentation.pdf).



This strategy helped the PDM to begin to improve its standing in voting preferences with an increase in polls from 2.8% in November 2017 to 7.2% in May 2018.<sup>20</sup>

Counter-protests were organised by Shor Party (PS)<sup>21</sup>, shortly after the opposition protests started.

The PS protests were tacitly backed by the governing party, and were perceived by opposition parties as another campaign to compromise the anti-government protests and to break the protest movement. The media support provided by PDM to PS counter-protests and the long-pending lawsuit against Shor generated suspicions that PDM was pumping up PS's voters' preferences as an alternative to left pro-Russia parties Partidul Nostru (Our Party) and PSRM ahead of the 2019 parliamentary elections.

The democratic backsliding in Moldova occurred against the backdrop of annual economic growth of 4.5% in 2017. According to the World Bank, this growth was led by private consumption, which was boosted by remittances, strong growth in wages and the indexation of public transfers in 2016.<sup>22</sup>

The partially unblocked EU funding and IMF support were also crucial.<sup>23</sup> On the other hand, the economy is very vulnerable to a downturn and growth will be difficult to maintain without the implementation of sustainable and sometimes politically sensitive domestic reforms that are needed to increase the country's economic competitiveness.

20 Survey by Institute for Public Policy, asking the question "If elections were to be held next Sunday for the Moldovan Parliament, which party would you not vote for in any circumstances?", series of surveys carried out during April 2017-May 2018, [www.bop.ipp.md](http://www.bop.ipp.md)

21 Shor Party is led by Ilan Shor, a businessman and mayor of Orhei (the third largest city in the country), who is also the main suspect in the theft from three Moldovan banks of US\$1 billion. Shor was the key witness in the court case against ex-prime minister Vlad Filat and other cases filed against other PLDM figures. In July 2017, he was sentenced at the court of first instance to seven-and-a-half years' imprisonment on charges of money laundering, but he continued to serve as mayor.

22 *Moldova Economic Update*, <http://www.worldbank.org/en/country/moldova/brief/moldova-economic-update>

23 *MEGA, XVIIth Edition: Conclusions of the Economic Year 2017 and Forecasts for 2018*, Expert-Grup, 14 December 2017, <https://www.expert-grup.org/en/biblioteca/item/1544-mega-editia-a-vii-a-concluziile-anului-economic-2017-si-prognoze-pentru-2018/1544-mega-editia-a-vii-a-concluziile-anului-economic-2017-si-prognoze-pentru-2018?category=178>

Moldova, narrowly ahead of Georgia, trails behind Ukraine and Armenia in the **Approximation** dimension of the Index 2017, reflecting slippages in human rights, media freedoms, the independence of the judiciary, and sustainable development policies, even as there were identifiable improvements in the control of corruption, DCFTA alignment, and convergence with EU energy policy. However, the moderate progress was mainly due to the improvement of the legal and normative framework and less related to effective implementation.

In the **Linkage** dimension of the Index 2017, Moldova remained in the leading position but, unlike in the previous Index, it now shares frontrunner status with Georgia. In political dialogue with the EU, Moldova lags behind Ukraine, but has moved ahead of Georgia. Growing trade with the EU, and higher foreign direct investment, has seen Moldova improve its position to the frontrunner in sectoral co-operation and trade flows.

## POLITICAL INTERFERENCE HAMPERS PROSPECTS FOR DEMOCRATIC RENEWAL

Although no parliamentary elections were held in 2017, the electoral reform initiated by the ruling PDM was passed without taking on board the recommendations of the Venice Commission. The reform was largely contested by the opposition parties as a measure that was likely to limit the chances of small and new parties to gain seats in parliament, and to increase the risks of political corruption among MPs. Other concerns focussed on potential political interference in the activity of election management bodies and limits on the electoral rights of voters residing abroad.

The deficient legal framework of the electoral reform raised concerns among civil society about the possible unfair distortion of the electoral process.<sup>24</sup> The electoral reform did not address prior recommendations of the Venice Commission's and GRECO on transparency in campaign and political party financing and on allowing donations from nationals living

24 *The Effects of the Mixed-Member Electoral System. Case Study: Situation of the Candidate from the National List of the Party, who is, at the Same Time, an Independent Candidate in the Single-Member Districts*, Promo-LEX, 17 October 2017, <https://promolex.md/10613-efectele-sistemului-mixt-studiu-de-caz-situatia-candidatului-din-lista-nationala-a-partidului-care-concomitent-este-si-candidat-independent-in-circumscripția-uninominală/?lang=en>

## Electoral Reform, then Referendum on Political Reform

The initiative to change the electoral system to a majoritarian one was proposed by the Democratic Party (PDM) in March 2017, arguing that the new electoral system would improve MPs' accountability to their voters, increase the legislative representatives of certain groups of the population and curb political corruption, allowing the citizens to revoke MPs' mandates.<sup>25</sup>

Although ill-disposed to this initiative, the EU only warned that electoral reforms should be legitimated by securing a broad consensus amongst political forces after a genuine consultation with civil society.<sup>26</sup> After criticising the PDM's proposal,<sup>27</sup> in April 2017 the Party of Socialists (PSRM) tabled its own bill introducing the mixed electoral system that mirrored 90% of the 2013 PDM draft on a mixed electoral system.<sup>28</sup> Making an attempt to convince domestic and international public opinion that there was a wide consensus over the reform, PDM simulated public debates in the parliament with the participation of a large number of defunct, pro-government NGOs, carried out an aggressive media campaign, and claimed to have collected signatures from 800,000 citizens in support of the PDM reform proposal.

All proposals made by parliamentary (PLDM and PCRM) and extra-parliamentary opposition parties (PAS, PDA and Our Party) to consider other alternatives to the mixed electoral system, such as an open-list proportional system, were ignored. In May 2017, both drafts were adopted at first reading and merged into one bill. The draft law was critically assessed by the Venice Commission on the basis that it did not rest on a broad consensus and that it included provisions that raised "significant concerns", including the risk that constituency MPs could be corrupted by business interests,<sup>29</sup> as happened in Ukraine in 2011.<sup>30</sup>

The draft law was severely criticised since its design is expected to benefit political parties with large administrative, financial and media resources, namely the ruling PDM and Dodon's PSRM, and to limit political pluralism. Another point of criticism was

the quality of the draft law, which contained numerous legal gaps and technical flaws, posing risks to the integrity of the future electoral process. Contrary to the Venice Commission recommendation to refrain from the change of electoral system in the existing political conjuncture, the law was adopted on 20 June 2017 and promulgated shortly afterwards by President Dodon.

The subsequent law enforcement process, related to the drawing of the boundaries of electoral districts, was assessed by electoral experts not to have been fully transparent, with violations of legal provisions regarding equality in voting power, and gerrymandering the electoral districts to favour the Party of Socialists.<sup>31</sup> On 13 November 2018, the PDM leader, Plahotniuc, announced PDM's plans to hold a consultative referendum on comprehensive political reform concomitantly with the parliamentary elections on 24 February 2019, contrary to a negative opinion of the Constitutional Court on combining a referendum with elections.<sup>32</sup> The reforms would include a reduction of the number of MPs from 101 to 61 and a mechanism through which citizens could revoke lawmakers' mandates if they disappointed. Plahotniuc said that consultations would be held on the proposals with citizens, experts, and the Council of Europe's Venice Commission.<sup>33</sup>

The populist-driven initiative of the ruling party was criticised by domestic election experts as being illegal, creating unfair conditions for competition and posing the risk of complicating the organisation and conduct of elections.<sup>34</sup> The experts also criticised the measures since one of them – the revocation of MPs – was unconstitutional, while the other – the reduction of the number of MPs – could be easily adopted by the parliament without holding a costly public consultation. The parliament removed the prohibitive provision on combining a referendum with elections<sup>35</sup> in a hasty, non-transparent way even before the PDM leader announced the reforms, and subsequently on 30 November the parliament affirmed that both issues would be posed to voters on 24 February 2019.<sup>36</sup>

25 *Votul uninominal e mai bun pentru Moldova (A Majoritarian Vote is Better for Moldova)*, Vlad Plahotniuc, 7 March 2017, <http://www.plahotniuc.md/ro/interviuri/votul-uninominal-e-mai-bun-pentru-moldova/>

26 *Joint Statement following the Third Association Council meeting between the European Union and the Republic of Moldova*, Council of the EU, 31 March 2017, <http://www.consilium.europa.eu/en/press/press-releases/2017/03/31/statement-eu-moldova/>

27 *Most Moldovan Parties Opposed to Electoral Reform Proposed by Democrats*, TASS, 7 March 2017, <http://tass.com/world/934464>

28 *Proiectul PSRM este în proporție de peste 90% scris de pe proiectul PDM, analiză (The PSRM Proposal Matched More than 90% of the PDM Proposal – Analysis)*, IPN, 19 May 2017, <http://ipn.md/ro/politica/83954>

29 *Moldova: Plans to Reform Electoral System and Presidential Powers Critically Assessed by the Venice Commission*, Press Release, Council of Europe, 16 June 2017, [https://search.coe.int/directorate\\_of\\_communications/Pages/result\\_details.aspx?ObjectId=090000168072703d](https://search.coe.int/directorate_of_communications/Pages/result_details.aspx?ObjectId=090000168072703d).

30 The implementation of the mixed electoral system in Romania, Ukraine and Georgia encouraged allegedly corrupt electoral practices at the constituency level. Criticisms of the model convinced Romania to move back to a wholly proportional electoral system, while Georgia changed its constitution to do so after the 2020 parliamentary elections.

31 *Analysis of Potential Problematic Aspects and Possible Effects of Single-Member Constituencies Established According to the Current Legal Provisions*, Promo-LEX, November 2017, <https://promolex.md/wp-content/uploads/2017/11/Single-member-constituencies-in-Moldova-Analysis-1.pdf>.

32 Constitutional Court Opinion no. 1, 22 September 2014, on the initiative to revise Articles 78, 85, 89, 91 and 135 of the Constitution through a Republican referendum (Session no.48c / 2014), <http://lex.justice.md/viewdoc.php?action=view&view=doc&id=355237&lang=1>

33 *Moldova's Democratic Party Proposes to Organise Consultative Referendum Concomitantly with Parliamentary Polls*, Tribuna, 13 November 2018, <http://tribuna.md/en/2018/11/13/pdm-vrea-un-parlament-optimizat-vlad-plahotniuc-anunta-referendum/>

34 *Analysis on the Possibility and Opportunity of Holding a Republican Referendum on the Day of the Parliamentary Elections of 24 February 2019*, Promo-LEX, 20 November 2018, [https://promolex.md/wp-content/uploads/2018/11/Opinie\\_Promo-LEX\\_Referendum-Alegeri\\_20.11.2018\\_eng2.pdf](https://promolex.md/wp-content/uploads/2018/11/Opinie_Promo-LEX_Referendum-Alegeri_20.11.2018_eng2.pdf)

35 Law no. 238, 8 November 2018, on amending some legislative acts, <http://www.legis.md/cautare/rezultate/109778>

36 Parliament Decision no. 332, 30 November 2018, <http://www.legis.md/cautare/rezultate/109978>

abroad. When civil society initiatives to collect signatures in support of a legislative referendum against the mixed electoral system were halted by the Central Election Commission, the latter was accused of political bias.

Parliament's eagerness to pass the electoral reform law contrasted with its total inactivity in examining the six recommendations to the parliament issued by the Constitutional Court<sup>37</sup>

37 *Results of Presidential Election, Confirmed by the Constitutional Court of Moldova*, Constitutional Court,

in order to remove the inconsistencies and gaps in the electoral legislation identified during the 2016 presidential elections.

The early mayoral elections held in late 2017 in ten towns and villages highlighted that the main problems identified by international and domestic observers remained unaddressed. These related to the deficiency of the election-

13 December 2016, <http://www.constcourt.md/libview.php?l=en&idc=7&id=926&t=/Media/News/Results-of-Presidential-Election-Confirmed-by-the-Constitutional-Court-of-Moldova>

dispute resolution mechanism, hidden campaign spending (including through the misuse of administrative resources), the limited capacities of election bodies to track campaign funding and apply sanctions, and vote-buying.<sup>38</sup>

The civic space and the quality of dialogue between the civil society and government on politically sensitive issues deteriorated considerably in 2017-2018 after civil society took a stand against the proposed electoral reform and other controversial legislative initiatives promoted by the ruling party.<sup>39</sup>

The denigration campaign against outspoken CSOs, launched in 2017 and carried out by media holdings affiliated to the ruling party, culminated in a failed attempt by the Ministry of Justice to introduce a law limiting the political activities and legislative advocacy activities of CSOs in receipt of foreign funds. The defamation campaign against civil society eroded public trust towards CSOs to the extent that trust dropped from 35% to 17% during 2017, highlighting CSOs' weakness in conveying their messages to the wider public.<sup>40</sup>

At the same time, the CSO sector remained financially unsustainable, heavily depending on foreign donors, and with limited state funding domestically. The 2% designation mechanism, under which individuals can transfer 2% of their personal income tax to eligible CSOs and religious entities, is expected to diversify CSOs' funding base and improve their communication skills.

Inspired by the example of countries from Central and Eastern Europe (Hungary, Lithuania, Poland, Romania, and Slovakia), which adopted the percentage designation mechanism, Moldovan civil society started to campaign for the 2% mechanism back in 2009. The legislation was passed in 2014, and the implementing regulation came into force in December 2016. Despite the modest results and numerous irregularities identified during the first year of implementation, the designation statistics for 2017-2018 showed that the

38 *Final Report on the Local Referendum on the Dismissal of the General Mayor of Chisinau municipality and of the New Local Elections of 19 November 2017*, Promo-LEX, January 2018, [https://promolex.md/wp-content/uploads/2018/01/final\\_report\\_referendum\\_elections\\_2017.pdf](https://promolex.md/wp-content/uploads/2018/01/final_report_referendum_elections_2017.pdf).

39 A similar law on capital amnesty, actively promoted by PDM, was dropped at the last moment in December 2016 following pressure from civil society and the international community.

40 "How much do you trust the following institutions? (NGOs)", survey question, Institute for Public Policy, [www.ipp.bop.md](http://www.ipp.bop.md)

2% mechanism has a rather high potential if further improved and popularised.<sup>41</sup>

During 2017, a considerable number of government-leaning CSOs were reactivated, and the activities of charitable foundations linked to a number of politicians increased. These foundations, whose activity is under-regulated and lacks financial transparency, were allegedly being used by politicians to garner political dividends before the parliamentary elections.<sup>42</sup>

## GOVERNMENT REFORMS INTRODUCED, BUT DECENTRALISATION POSTPONED

A long-postponed central public administration reform aimed to strengthen central public institutions was implemented in 2017-2018. The reform focused principally on the optimisation of ministries (reducing the number from 16 to 9), including a modest wage increase for public servants, but failed to reduce the influence of party political factors on public institutions, and to make them more transparent and accountable.

At the same time, much-needed local administration and decentralisation reforms were postponed. In the absence of a significant degree of financial autonomy, local government continues to be highly vulnerable to the political pressure that increased considerably during 2017, including through preferential disbursement of public funds to mayoralities affiliated to the ruling party – a practice that induced many opposition mayors to defect to the PDM.

The invalidation of the 2018 mayoral elections in Chisinau brought again to the forefront the topic of the independence and professionalism of the judiciary. Concerns over alleged selective justice and the persecution of certain lawyers and judges were reported in 2017. While the government assessed the accomplishment of the Justice Sector Reform Strategy (2011-2017) at 85% by 2017, the public trust in justice remained at a very low level (13.6% of the public had great trust, or somewhat trusted, in

41 *One Year of Implementation of the 2% Mechanism in Moldova*, Sorina Macrinici, Ilie Chirtoaca, Legal Resources Centre from Moldova, June 2018, [https://crjm.org/wp-content/uploads/2018/07/2018-06-LRCM-report-2perc\\_fin.pdf](https://crjm.org/wp-content/uploads/2018/07/2018-06-LRCM-report-2perc_fin.pdf).

42 *Nations in Transit Report 2018. Moldova*, Freedom House, <https://freedomhouse.org/report/nations-transit/2018/moldova>



the justice system in November 2017)<sup>43</sup>, and major problems related to the rule of law and the independence of the judiciary persist.

Key barriers to an independent justice system include a selective approach in selecting and

43 “How much do you trust the following institutions? (Justice)”, survey question, Institute for Public Policy, www.ipp.bop.md.

promoting judges, inconsistent and non-transparent disciplinary procedures against judges, the politicisation of the Supreme Court of Justice and the Superior Council of Magistracy, and decreasing judicial transparency and accountability.<sup>44</sup>

44 *Justice Sector Challenges Undermine the Rule of Law in the Republic of Moldova*, Nadejda Hriptievski, Legal Resources Centre from Moldova, Soros Foundation Moldova, April 2018, [https://www.soros.md/files/publications/documents/Hriptievski%20USAID\\_0.pdf](https://www.soros.md/files/publications/documents/Hriptievski%20USAID_0.pdf)

## New Agencies and Prosecution Powers, but Political Will Stalls Progress in Tackling Corruption

In 2017, the parliament passed the Law on Integrity in the Public Sector, the new Law on the Prevention of Money Laundering and Combating Terrorist Financing, and the new National Integrity and Anti-Corruption Strategy for 2017-2020 and the accompanying action plan. However, the 2017 government reform considerably slowed down the implementation of the action plan, especially in the case of important measures such as the adoption of anti-corruption plans for nine domains of public administration prone to corruption, the whistleblower-protection law, and the regulation of political or social foundations. The latter potentially posed a serious challenge for electoral integrity ahead of the 2019 parliamentary and local elections, considering that political parties extensively use charitable foundations for pre-electoral promotional activities, without reporting the funds injected into these foundations to the Central Electoral Commission.

The reform of the Prosecution Office, initiated in 2016, did not succeed in transferring the exclusive competences for fighting high-level corruption from the National Anti-Corruption Centre (NAC), perceived as politically dependent, to the Anti-Corruption Prosecution Office (APO). The institution continued to be overworked with petty corruption cases – to the detriment of high-level corruption cases, among them the investigation of the 2014 US\$1bn banking fraud. Concerns about a lack of will to punish high-level corruption were not allayed when the investigation into the banking fraud progressed at a slow pace, and the examination of the Shor case in the Court of Appeal was delayed, after he had already been sentenced for the banking fraud in the court of first instance.

On the positive side, the agency responsible for the recovery of illicit assets was established in 2017. Set up as an autonomous subdivision within the National Anti-Corruption Centre, the Criminal Assets Recovery Agency is responsible for tracking, confiscating and recovering illegal assets from Moldova and abroad. The agency became functional in the same year, but was overworked, understaffed and poorly equipped.

Another positive development was the launch of the online submission of asset declarations by public officials, mandatory from January 2018, and the piloting of an online system for public procurement. Nevertheless, the National Integrity Authority (NIA) responsible for controlling asset declarations, and potential conflicts of interest of officials, remained nonfunctional due to delayed selection of the NIA's leadership until December 2017 and the subsequent delayed selection of integrity inspectors responsible for verifying income and asset declarations. By the end of 2018, only seven out of a planned 46 integrity inspectors had been selected. The controlling capacity of the NIA was seriously weakened after the 2017 electoral reform, when the parliament introduced a new competence for NIA – that of issuing integrity records for all candidates for elected or appointed public positions. This created a significant burden on the integrity inspectors that would increase even more on the eve of the 2019 local elections.

The anti-corruption measures in place were undermined in July 2018, when the parliament adopted the scandalous law on voluntary tax declarations. The law amounted to a capital

amnesty, allowing all individuals – with the exclusion of some high-ranking public officials, but not their families – to declare all undeclared or previously misdeclared assets and revenues. A symbolic 3% tax would be levied on the assets and funds declared.<sup>45</sup> The law, which was effective until 1 February 2019, was largely perceived as a tool ahead of the February 2019 parliamentary elections to legalise the money stolen from the US\$1bn banking fraud and funds from Russian money-laundering schemes without incurring any further penal or fiscal sanctions. In the face of strong criticism from civil society and international development partners over the legitimisation of corruption and theft, the law was hastily enacted by President Dodon and entered into force in August 2018.

This law completed a series of highly controversial actions adopted by the Moldovan authorities contrary to the country's anti-money laundering and anti-corruption commitments. These included the plan in late 2016 to offer citizenship for a minimum investment of €100,000 and the subsequent launch of this programme in 2018.<sup>46</sup> The amendment to the Citizenship Law was introduced in a non-transparent manner, without any ex-ante macroeconomic analysis and in defiance of the corruption risks identified by the NAC. This initiative was regarded by anti-corruption experts as a new attempt to legalise financial assets acquired from dubious sources.<sup>47</sup>

International financial institutions welcomed an amendment to the voluntary tax declarations law passed by the parliament on 8 November 2018, but urged the authorities to make them effective without delay.<sup>48</sup> The amendment doubled to 6% the fee paid by those declaring their wealth and barred lower-ranking civil servants from taking advantage of the law's provisions. Politicians, bankers and high-ranking public servants were already excluded in the initial form of the law. The revision of the controversial law was aimed at bringing it into line with the IMF's recommendations and thus unblocking the next tranche of IMF funding scheduled for 2019.<sup>49</sup>

45 *Law no. 80 as of 26 July 2018 on Voluntary Declaration and Fiscal Stimulation*, <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=376854>

46 *Welcome to Moldova Citizenship by Investment Programme*, Global Citizenship Investment, <https://www.moldova-citizenship.com/>

47 *Position Paper: The New Amendments to the Citizenship Law – a Risk of Legalising Fraudulent Financial Means*, Transparency International-Moldova, 22 August 2017, <http://www.transparency.md/2017/08/22/position-paper-the-new-amendments-to-the-citizenship-law-a-risk-of-legalizing-fraudulent-financial-means/>

48 World Bank statement, 10 November 2018, <https://www.facebook.com/WorldBankMoldova/photos/a.497816342618/10157911026357619/?type=3&theater>

49 *Moldova Tightens Voluntary Tax Compliance Bill in Line with IMF's Recommendations*, bne IntelliNews, 13 November 2018, <http://www.intellinews.com/moldova-tightens-voluntary-tax-compliance-bill-in-line-with-imf-s-recommendations-151846/?source=moldova>

In 2017, the practice of examining high-profile cases behind closed doors continued. An attempt by the Superior Council of Magistracy to further restrict the courts' openness through the de-personalisation of court rulings was blocked by civil society protests. Moldova's failure to reform its justice sector was recognised by the EU when it decided to cut all funding for justice reform starting from October 2017.<sup>50</sup> The lack of an independent judiciary was also the main reason for putting on hold the first disbursement of EU macro-financial assistance.

Although the authorities acknowledged some problems in the judiciary, they blamed the European partners and civil society that participated in the justice sector reform for the lack of progress.<sup>51</sup>

The democratic backsliding brought about a decline of human rights in 2017. The major human rights issues reported by both international<sup>52</sup> and national organisations<sup>53</sup> related to torture and ill-treatment in detention and psychiatric institutions, harsh detention conditions, excessive use of abusive and illegal arrests, denial of a fair trial, restrictions on the freedom of the media, particularly in the Transnistria region, poor access to quality healthcare, human trafficking, and discrimination against vulnerable groups.

50 *Moldova: EU Cuts Budget Support Programme for Justice Reforms*, Press Release, Delegation of the EU to the Republic of Moldova, 11 October 2017, [https://eeas.europa.eu/delegations/moldova/33723/moldova-eu-cuts-budget-support-programme-justice-reforms\\_en](https://eeas.europa.eu/delegations/moldova/33723/moldova-eu-cuts-budget-support-programme-justice-reforms_en)

51 *Guvernul vine cu unele precizări privind întrederea dintre prim-ministrul Pavel Filip și ambasadorii UE acreditați la Chișinău (The Government Provides Details of Meeting between Prime Minister Pavel Filip and EU Ambassadors Accredited in Chisinau)*, Government Press Release, Government of the Republic of Moldova, 7 July 2018, <https://gov.md/ro/content/guvernul-vine-cu-unele-precizari-privind-intrederea-dintre-prim-ministrul-pavel-filip-si>

52 *Moldova 2017 Human Rights Report*, US Department of State, <https://www.state.gov/documents/organization/277439.pdf>

53 *Report on Observance of Human Rights and Freedoms in the Republic Of Moldova in 2017*, Ombudsman office, 2018, [http://ombudsman.md/wp-content/uploads/2018/10/raport\\_2017\\_engl.pdf](http://ombudsman.md/wp-content/uploads/2018/10/raport_2017_engl.pdf), and Communication in Accordance with Rule 9.2 of the Rules of the Committee of Ministers for the Supervision of the Execution of Judgements and of the Terms of Friendly Settlements. CIORAP v. Moldova Group of Cases (Conditions of Detention), Legal Resources Centre from Moldova, 19 February 2018, <https://crjm.org/wp-content/uploads/2018/02/2018-02-19-submission-2-LRCM-Ciorap.pdf>

International organisations also acknowledged the presence of political prisoners. Although set up in 2014, the existing National Torture Preventive Mechanism is ineffective, and is rather a monitoring tool with no investigative competences to back it up. During 2017, a number of private telephone conversations made by both opposition and ruling politicians were leaked, while access to public information was becoming consistently more prohibitive, as authorities misused the data protection law to curb freedom of information.

A new Audiovisual Code was finally approved on 26 July 2018, after a broad consultative process with the media community and civil society, and was adopted by the parliament on 18 October 2018. Important last-minute changes were introduced before the Code's adoption, including some related to foreign propaganda, risking a delay in its promulgation by the President. The Law on the Audiovisual Code was enacted in December 2018 by the parliamentary speaker, Andrian Candu, after the Constitutional Court suspended for the fifth time Dodon's presidential powers owing to his refusal to sign five laws.<sup>54</sup>

Despite the entry into force in 2016 of statutory limits on media ownership, the concentration of media ownership persisted. The media holdings remained effectively controlled by politicians through intermediaries.<sup>55</sup> The monopolisation of the advertising market by two companies affiliated to PDM and PSRM respectively posed serious problems for independent media that also faced the selective application of the law by the media regulatory agency. At the same time, the public broadcaster became even more politicised in its bias towards the ruling party and against the opposition. The number of instances of intimidation of journalists increased, and further restrictions on access to information led to a decline in media freedom in 2017-2018.<sup>56</sup>

54 *Moldovan Constitutional Court Suspends President for Fifth Time*, Radio Free Europe/Radio Liberty, 18 December 2018, <https://www.rferl.org/a/moldova-court-dodon-suspended/29649228.html>

55 *Cine este noul mogul media din Moldova. Are în posesie două televiziuni (Who is the New Moldovan Media Mogul? He Owns Two Television Stations)*, diez, 12 May 2017, <http://diez.md/2017/05/12/foto-cine-este-noul-mogul-media-din-moldova-posesie-doua-televiziuni/>. In May 2017, the broadcasting licenses for two channels (Canal 2 and Canal 3) owned by the PDM leader Vladimir Plahotniuc were transferred to his PR adviser Oleg Cristal. A number of local TV channels are controlled by PSRM, through party affiliated owners.

56 *Memorandum on the Freedom of the Press in the Republic of Moldova 3 May 2017 - 3 May 2018*, Centre for Journalistic Integrity, 2018, <http://media-azi.md/en/>

## IMPROVEMENTS IN INVESTMENT CLIMATE MARRED BY FRAGILITY OF BANKING SECTOR

In 2017, the government introduced a number of improvements with regards to the business climate. Some of them may sound of minor importance, such as removing the requirement for new companies to register with the Social Security Fund, but they were certainly welcomed by businesses. The process of obtaining a new electricity connection was streamlined by eliminating the need for small customers to obtain an inspection from the State Energy Inspectorate.

Despite these amendments, the business environment remained challenging and vulnerable to political influence. While most large foreign companies preferred to locate in the free economic zones where they could take advantage of tax breaks and streamlined customs procedures, the foreign direct investment inflows remained at low levels in 2017, higher than 2016 but far below 2008, when the peak level was recorded.<sup>57</sup> The major concerns related to the investment climate comprised the lack of public trust in the government, the low level of transparency in public policymaking, and the continuing fragility of the banking sector.

On the one hand, Moldova continued to fulfil the visa liberalisation benchmarks (that paved the way for visa-free travel to the Schengen countries, introduced in 2014). On the other hand, the implementation of anti-corruption and anti-money laundering benchmarks was endangered by political influence and controversial legislative amendments and laws that undermined the anti-corruption legal framework and the work of the anti-corruption institutions. The areas of concern listed by the European Commission in the first report under the visa suspension mechanism – issued in 2017 – remained largely unaddressed, while the authorities focussed mainly on compliance with technical recommendations.<sup>58</sup>

memorandum-freedom-press-republic-moldova-3-may-2017-%E2%80%93-3-may-2018

<sup>57</sup> *Foreign Direct Investment, Net Inflows (Balance of Payments, Current US\$)*, World Bank, <https://data.worldbank.org/indicator/BX.KLT.DINV.CD.WD?locations=MD>

<sup>58</sup> *Commission Staff Working Document (Accompanying the Document) Report from the Commission to the European Parliament and the Council. First Report under the Visa Suspension Mechanism (Com(2017) 815 Final)*, European

In the energy area, moderate progress was registered in the harmonisation of national legislation with EU law, namely by adopting the Law on Electricity and Natural Gas in 2016 and the Law on Energy in 2017, aimed at strengthening the political and financial independence of the National Energy Regulatory Agency (ANRE).<sup>59</sup> However, allegations that the contest for the position of Chair of ANRE in 2017 was not a free and open one, and the non-transparent tender contest for electricity that perpetuates Moldova's energy dependency on Russian energy sources, raise serious concerns about the qualitative and swift implementation of these laws.

While electricity and gas interconnections with Romania are under construction, the tender for selecting a company to build a gas line connection with Romania – scheduled for 2017 – was postponed.<sup>60</sup>

## TARGETS SET FOR MORE HUMAN-CENTRED SUSTAINABLE DEVELOPMENT

Following the interim evaluation of the Moldova 2020 National Development Strategy,<sup>61</sup> in 2017-2018 the government, with the support of the UN, proposed a concept note for the new “Moldova 2030” National Development Strategy (NDS).<sup>62</sup> The new NDS aims to transpose the Sustainable Development Goals into the national policy framework and thus to replace the current “Moldova 2020” Strategy which is not in line with the global Agenda 2030 for Sustainable Development and has not met the expectations regarding its developmental impact.

Commission, 20 December 2017, [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-is-new/news/20171220\\_swd\\_accompanying\\_first\\_report\\_under\\_suspension\\_mechanism\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-is-new/news/20171220_swd_accompanying_first_report_under_suspension_mechanism_en.pdf)

<sup>59</sup> Law no. 174 as of 21 September 2017

<sup>60</sup> In 2018, a company was selected to build the interconnected gas pipeline on Moldova's side and a loan agreement was signed with the European Bank for Reconstruction and Development (EBRD) and BEI for building the electricity interconnection.

<sup>61</sup> *Report on Interim Evaluation of the Moldova 2020 National Development Strategy*, Expert-Grup, State Chancellery, Government of Republic of Moldova, 4 September 2017, [https://cancelaria.gov.md/sites/default/files/raport\\_evaluate\\_md2020.pdf](https://cancelaria.gov.md/sites/default/files/raport_evaluate_md2020.pdf)

<sup>62</sup> *Concept Note Regarding the Vision for Moldova 2030 National Development Strategy*, State Chancellery, Government of Republic of Moldova, 2017, [https://cancelaria.gov.md/sites/default/files/viziunea\\_snd\\_2030\\_clean.pdf](https://cancelaria.gov.md/sites/default/files/viziunea_snd_2030_clean.pdf)



According to the concept note, the Moldova 2030 NDS should adopt a more human-centred approach to development based on ten general priorities, from ensuring decent income for everyone and providing access to education and health services to a clean environment and safe communities. Ten government working groups encompassing the participation of governmental bodies, civil society, the private sector and donors have been created to develop the strategy for each of the ten priorities.

The concept of sustainable development is partially mainstreamed in national education policy, curricula, teacher-training and students' assessment processes. With the aim of increasing access to education and enhancing educational quality and relevance, in 2018 the Ministry of Education, Culture and Research initiated a broader process of reviewing the education sector and education policy and took an active leadership role in the working group "Relevant and high-quality life-long education" as part of the Moldova 2030 NDS process.

However, at the level of curricula and teacher-training, the mainstreaming efforts are rather sporadic, although positive developments include the implementation of a revised curriculum for civic education in grades 5 and 10 starting in September 2018.

The headline indicators of the health sector stayed largely unchanged in 2017.<sup>63</sup> The rise of suicide rates and traffic accidents as dominant causes in the structure of mortality from external causes was a troubling development. Suicide cases rose from accounting for 16.2% of all deaths from external causes in 2013 to 22.3% in 2017 (making them the leading cause), while traffic accidents rose from 11.2% of cases in 2013 to 14.9% in 2017.

In 2017 the Ministry of Health, Labour and Social Protection launched the development of a new health sector strategy, but for the sake of consistency postponed its implementation until after the approval of the Moldova 2030 NDS.

In the environmental area, Moldova ratified the Paris Agreement on Climate Change in May 2017 and strategies for climate change adaptation in the forestry sector is under preparation. At the same time, the approval of the law on chemical substances, harmonised

63 *Moldova Health Sector Statistical Yearbook 2017*, Ministry of Health, Labour and Social Protection of the Republic of Moldova, National Agency for Public Health, 2018.

with the EU Directives, was postponed following undue influence exerted by vested interests.

The 2017 government reform that merged the agriculture and environment portfolios into one ministry was perceived by environmental experts as a serious impediment to the further implementation of environmental chapters from the Association Agreement<sup>64</sup> as it was perceived that short-run economic and agricultural interests would prevail over environmental interests in priority-setting and policy decisions. The staff cuts following the government reform could also seriously affect the approximation and implementation of very complex EU environmental legislation.

## EU FREEZES, THEN CUTS, FINANCIAL ASSISTANCE

Moldova-EU political dialogue in 2017 was dominated by the EU's frustration in the face of the Moldovan authorities' unwillingness to implement reform commitments and disappointment over the hastily introduced electoral reform, passed contrary to the recommendations of the Venice Commission.

In the first half of 2017, the government sought to restore the trust of the EU in the aftermath of the 2014 banking fraud and the subsequent political crisis.

In July 2017, the government approved the Priority Reform Action Roadmap II, in order to implement by the end of 2017 a series of stalled commitments under the EU-Moldova Association Agreement and boost much needed democratic and economic reforms<sup>65</sup>. Moderate progress was made in the implementation of the Roadmap, which included many technical measures and actions overlapping or even contradicting existent strategies.<sup>66</sup> The implementation of the Action

64 *Declaration of the Civil Society Regarding Monitoring of the Implementation of the Association Agreement in the Field of Environment*, National Environment Centre, 1 March 2017, <http://environment.md/en/info/222-.html>

65 *Priority Reform Action Roadmap II*, Parliament of Republic of Moldova, 2017, <http://parlament.md/LinkClick.aspx?fileticket=gXrirdWwNE%3D&tabid=203&language=ro-RO>

66 The shadow monitoring report assessed the implementation rate to 55%.

*Final Monitoring Report on the Implementation of the Priority Reform Action Roadmap (5 July - 31 December 2017)*, Expert-Grup, Association for Participatory Democracy 'ADEPT', and Legal Resource Centre from Moldova, 7 December

Plan for Implementation of the Association Agreement showed even more modest results,<sup>67</sup> with moderate progress in fulfilling the commitments related to the DCFTA, but almost no progress on political dialogue and reforms.

The EU was especially concerned by the stagnation of judicial reform, the lack of effectiveness in fighting corruption and the democratic backsliding, as epitomised by the electoral reform measures, and subsequently tied the provision of the €100mi macro-financial assistance to Moldova, adopted in September 2017, to the fulfilment of 28 technical conditions and a number of political pre-conditions related to respect for democratic mechanisms, the rule of law and human rights.<sup>68</sup> The invalidation of the mayoral election in June 2018 led the EU to put on hold the disbursement of the first macro-financial assistance tranche until political pre-conditions had been met.

Moldova has become a “state captured by oligarchic interests”, according to a resolution passed by the European Parliament on 14 November 2018. MEPs expressed “grave concern about backsliding in relation to democratic standards”. The resolution also expressed concern about “signs of a further shrinking of space for the country’s civil society”. The resolution said that any future EU financial support should take place only after the parliamentary elections in February 2019 and “on the condition that they are conducted in line with internationally recognised standards and assessed by specialised international bodies”.<sup>69</sup>

2017, <http://www.e-democracy.md/files/raport-final-foaie-parcurs-07-12-2017-en.pdf>

67 The shadow monitoring report showed a 34.1% implementation rate of the National Action Plan for the implementation of the EU-Moldova Association Agreement (NAPIAA) in 2017.

2nd shadow report of the EU-Moldova Association Agreement (Quarter I-III, 2017), European Policies and Reforms Institute (IPRE), 22 December 2017, <http://ipre.md/2017/12/22/al-ii-lea-raport-alternativ-privind-implementarea-acordului-de-asociere-cu-ue-trimestrul-i-iii-2017/?lang=en>

68 *Macro-Financial Assistance to the Republic of Moldova. Grant and Loan from the European Union of up to €100 Million – Memorandum of Understanding Between the Republic of Moldova and the National Bank of Moldova as the Beneficiary’s Financial Agent and the European Union*, 23 November 2017, [http://lex.justice.md/UserFiles/File/2018/mo7-17md/Memorandum\\_eng\\_272.pdf](http://lex.justice.md/UserFiles/File/2018/mo7-17md/Memorandum_eng_272.pdf)

69 *European Parliament Resolution of 14 November 2018 on the Implementation of the EU Association Agreement with Moldova (2017/2281 (INI))*, European Parliament, 14 November 2018, <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P8-TA-2018->

The European Commission announced on 15 November 2018 that it was cutting its financial assistance to Moldova for 2017- 2018 from €140 million to €100 million amid concerns about the rule of law and the democratic backsliding. The European Commissioner for European Neighbourhood and Enlargement Negotiations, Johannes Hahn, said that the assistance had now been suspended until further notice.<sup>70</sup>

## TRADE GROWTH WITH EU HAS OFFSET EFFECTS OF RUSSIAN EMBARGO

The DCFTA has been the key driver behind the robust growth of exports of manufacture products, food, beverages and agricultural products to the EU throughout 2017-2018. In 2017, the bilateral trade flows maintained the upward trend started in 2016 and registered a record growth rate of exports to the EU by 38% in the first half of 2018, while imports from the EU grew by 30%.<sup>71</sup>

Four years after the signing of the Association Agreement, there was compelling statistical evidence that the expansion of trade with the EU had offset the losses Moldova suffered from the Russian trade embargo on Moldovan produce and the conflict in the eastern Ukraine (Ukraine was the principal transit route for trade with Russia).

With a share of 68.5% in total exports,<sup>72</sup> the EU has emerged as the principal market for Moldova. Yet, there is still unused potential in the DCFTA for Moldovan producers of food and products of animal origin, since they have not yet been able to fulfil the EU’s high food safety and hygiene regulations. While meeting the standards requires private investment, there is also a significant role for the government to play in developing the domestic laboratory network and the food safety surveillance and monitoring system.

0458+0+DOC+XML+V0//EN&language=EN

70 *EU Cuts Moldova Funding Amid Rule-of-Law Concerns*, Radio Free Europe/Radio Liberty, 15 November 2018, <https://www.rferl.org/a/eu-cuts-moldova-funding-amid-rule-of-law-concerns/29603052.html>

71 *Activitatea de comerț exterior a Republicii Moldova în ianuarie-iunie 2018 (External Trade Activity of the Republic of Moldova in January-June 2018)*, 7 August 2018, <http://www.statistica.md/newsview.php?l=ro&idc=168&id=6083>

72 *Statistical data for the first half of 2018*, <http://www.statistica.md/newsview.php?l=ro&idc=168&id=6083>.

At the same time, as evidenced by recent economic studies,<sup>73</sup> other Moldovan products – such as plums, grapes, wheat and processed cereals – have been successful and have fully utilised the EU tariff rate quotas or are close to the volumes triggering the anti-circumvention mechanisms envisaged by the DCFTA. The government of Moldova should negotiate with the EU an increase of quotas for these products.

The economic gains provided by the DCFTA have become tempting even for Russia, which is now exploring ways to take advantage of Moldova's DCFTA and its access to EU markets, contrary to its previous negative position.<sup>74</sup>

## VISA-FREE TRAVEL HAS NOT SHIFTED ATTITUDES TOWARDS EU

As regards people-to-people communication, during 2017 Moldova registered a decline in the level of cultural exchanges with the EU compared with 2015-2016, participating in only one project implemented by the European Cultural Foundation.

A downward trend was also observed in Moldova's co-operation with the EU in science and education. Although the number of Horizon 2020 projects with Moldova's participation slightly increased (28 as compared with 26 in previous year), Moldova engaged much less in Erasmus+ learning mobility projects.<sup>75</sup>

However, the overall number of social interactions between Moldova and the EU is constantly growing due to the visa-free regime that has been in place since 2014. The intensification of people-to-people contacts has not resulted in a greater affinity of Moldova's citizens with the EU, however. The percentage of people with a positive perception about the EU declined from 2016 to 2017 in favour of

those expressing a neutral attitude. A rise in positive perceptions occurred in 2018, but the figure remained lower than in 2016).<sup>76</sup>

Moldova's citizens are generally aware about the EU's financial support to the country, with 79% of the population recognising the assistance provided by the EU. Slightly more than half of them (52%) knew about specific programmes financed the EU, and infrastructure development projects were among those most frequently mentioned (65%).

On the other hand, only 37% of citizens found the EU's aid effective, deeming that the areas of tourism, access to more products and services, and infrastructure benefitted most. Conversely, the fight against corruption was perceived as the area with the least impact and was indicated as the first choice of areas where greater EU support was expected.

Corruption was also listed as among the most pressing problems faced by Moldova (cited by 46% of respondents in 2017, rising to 48% in 2018), together with low salaries/pensions (50% in 2017, 49% in 2018) and unemployment (42% in 2017, down to 37% in 2018), and low living standards/poverty (rising from 37% in 2017 to 40% in 2018).<sup>77</sup>

<sup>73</sup> *EU Tariff Rate Quotas and Anti-Circumvention Trigger Volume: What Products Should be Prioritised?*, Woldemar Walter and Ricardo Gucci, Policy Briefing Series [PB/03/2018], German Economic Team Moldova, May 2018, [https://www.get-moldau.de/wordpress/wp-content/uploads/2018/05/PB\\_03\\_2018\\_en.pdf](https://www.get-moldau.de/wordpress/wp-content/uploads/2018/05/PB_03_2018_en.pdf)

<sup>74</sup> *Reprezentantul lui Putin lauda Acordul de Liber Schimb al Moldovei cu UE (Putin's Representative Praises Moldova's Free Trade Agreement with the EU)*, Mold-Street, 29 August 2018, <https://www.mold-street.com/?go=news&n=7936>

<sup>75</sup> In 2017 Moldova engaged in 76 Erasmus+ projects (learning mobility), as compared with 368 in 2015-2016.

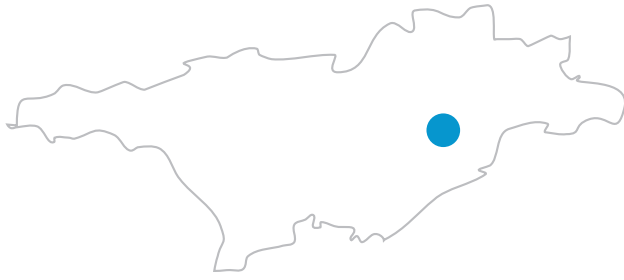
<sup>76</sup> *Annual Survey report 2017, EaP Regional Overview – 2nd Wave (Spring 2017)*, [https://www.euneighbours.eu/sites/default/files/publications/2017-10/EUNEIGHBOURSeast\\_AnnualSurvey2017report\\_EaP\\_OVERVIEW\\_0.pdf](https://www.euneighbours.eu/sites/default/files/publications/2017-10/EUNEIGHBOURSeast_AnnualSurvey2017report_EaP_OVERVIEW_0.pdf).

<sup>77</sup> *Annual Survey Report: Moldova. 3rd Wave (Spring 2018). OPEN Neighbourhood – Communicating for a Stronger Partnership: Connecting with Citizens Across the Eastern Neighbourhood*, EU Neighbours East/ECORYS, June 2018, <https://www.euneighbours.eu/en/east/stay-informed/publications/opinion-survey-2018-republic-moldovas>





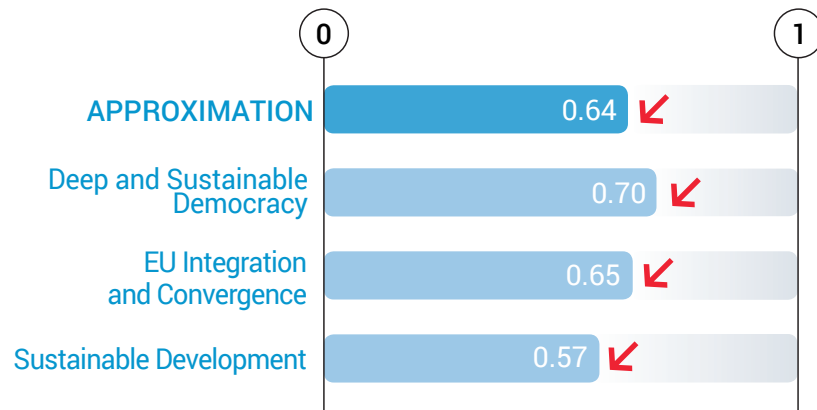




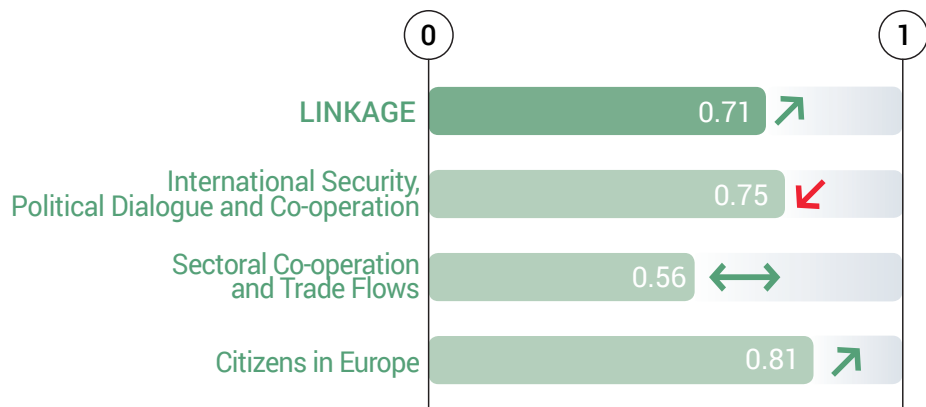
# GEORGIA



## APPROXIMATION



## LINKAGE



# GEORGIA

## TOP CHALLENGES FOR 2019

- Wide consultations with the public and non-state stakeholders should be undertaken to tackle the challenges of the practice of informal governance on the state level. The attainment of international standards in public administration should be a priority in Georgia's institutional reforms.
- The judicial system, which continues to be one of the weakest areas in Georgia's governance system, needs urgent reform at all levels – the independence of the judiciary, the independence and professionalism of the judiciary, and the independence and professionalism of the Prosecutor's Office.
- The government, parliament, media, and civil society should focus attention on the growing phenomenon of xenophobia, homophobia, hate crimes and hate speech, and to strengthen the protection and promotion of human rights of all citizens and residents of Georgia,
- Effective and comprehensive implementation, rather than merely formal application, of the requirements of the Association Agreement between the EU and Georgia in a transparent and accountable manner. Civil society should take the initiative in monitoring implementation, the shortfalls in implementation, and also the results of the engagement with the EU.
- The parliament should change the Constitution to guarantee multiparty democracy through bringing forward a fully proportional voting system for the 2020 parliamentary elections (under the new Constitution, the change is effective only from 2024).

## IN-DEPTH INTEGRATION WITH EU MARRED BY FALTERING DEMOCRATIC REFORMS

Georgia's democratic development during 2017 and subsequently in 2018 stalled on the whole, and suffered significant setbacks compared with previous years. Reforms that had been underway for a number of years, for instance vis-à-vis the judiciary, decentralisation, and freedom of the media, came to a halt and, by the end of 2017, the situation was starting to deteriorate.

Civil society actors and international organisations, such as Freedom House and Human Rights Watch, as well as the US State Department, raised concerns regarding the speed and direction of reforms. Their concerns

did not draw appropriate responses from the side of the Georgian government despite the shortfalls' potential negative impact on the overall development of the country and its path towards EU integration.

On the other hand, co-operation and political dialogue between the EU and Georgia continued to be fruitful. The fourth Association Council meeting between Georgia and EU "positively assessed the significant progress in EU-Georgia relations since the last Association Council in December 2016".<sup>1</sup> Georgia and the European Commission agreed on the establishment of a new format of co-operation with a view

1 *Joint Press Release Following the 4th Association Council Meeting between the European Union and Georgia, Council of the EU*, 5 February 2018, <http://www.consilium.europa.eu/en/press/press-releases/2018/02/05/joint-press-release-following-the-4th-association-council-meeting-between-the-european-union-and-georgia/>

to strengthening EU-Georgia sectoral co-operation and Georgia's approximation with EU standards.

The format, commencing from autumn 2018, included annual meetings between Georgia's prime minister and the European Commission President – with the participation of relevant ministries from the Georgian side and European Commissioners.<sup>2</sup> The EU integration roadmap, which is under continued development, focuses principally on the advancement of sectoral and political integration.

Georgia ranks fourth among the six EaP countries in the **Approximation** dimension of the Index 2017, narrowly trailing behind Armenia and Moldova, and significantly behind the frontrunner, Ukraine. Slippages included a fall in the independence of the media and poor results on sustainable development policy – notably weak performance on poverty alleviation and healthcare indicators. On the other hand, strong progress was made in EU integration with the advent of visa-free travel to the Schengen countries, and also in DCFTA alignment with the EU.

In the **Linkage** dimension of the Index 2017, Georgia, together with Moldova, led over Ukraine, with the other EaP countries far behind. Georgia performed strongly in international security co-operation and benefited from increased trade with the EU. Georgia also led in Citizens in Europe, with improved scores following the introduction of visa-free travel, including a rise in student and academic mobility.

## CONSOLIDATION OF POWER AND CONSTITUTIONAL REFORM

Two major political events in 2017 – constitutional reform and local elections – furthered the consolidation of power in the hands of the ruling party, Georgian Dream - Democratic Georgia (GD). These combined with ongoing governmental and institutional changes and the strengthening of informal governance in the institutional framework.

The constitutional reform introduced by the ruling party failed to gain a broad public

<sup>2</sup> Letter from Ministry of Foreign Affairs of Georgia to Green Alternative, 31 July 2018

and political consensus. “Constitutional amendments proposed by the GD in early 2017 to change the electoral system fostered discussion among parties and polarised the political debate in the country. Parties and civil society organisations did not reach a broad consensus over the amendments. On 26 September, the amendments were adopted; in protest, the parliamentary opposition parties boycotted the vote. On 9 October, the President vetoed the proposed amendments, but on 13 October the parliament overrode the veto and the amendments were passed.”<sup>3</sup>

Despite an overall positive assessment<sup>4</sup> of the draft new Constitution by the Council of Europe's Venice Commission, criticisms were addressed at the postponement of the introduction of a fully proportional parliamentary election system until 2024 and the move to the indirect election of the President in the same year.

The process of elaboration of the constitution itself polarised opinion, and the Commission on Constitutional Reforms was boycotted by the President. President Giorgi Margvelashvili – who was elected as the candidate of the ruling GD in 2013, but later fell out with the party's leadership, and did not seek re-election in the 2018 presidential election – exercised the presidential veto over the constitutional reforms after their adoption by the parliament in October 2017. The veto was easily overridden by the GD which held a constitutional majority of MPs in the parliament, where it was subsequently passed without taking into consideration the President's concerns.<sup>5</sup>

In October and November 2018 (two rounds), Georgia held its last direct presidential elections. Furthermore, with effect from the election of the new President, the role of the President has been diminished in the area of defence and security. The National Security

<sup>3</sup> Georgia. *Local Elections, 21 October and 12 November 2017*, OSCE/ODIHR Election Observation Mission Final Report, Office for Democratic Institutions and Human Rights, Organization for Security and Co-operation in Europe (pp. 4-5 Background and Political Context), 23 February 2018, <https://www.osce.org/odihr/elections/georgia/373600?download=true>

<sup>4</sup> Georgia - *Opinion on the Draft Revised Constitution*, Venice Commission, 19 June 2017, [http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2017\)013-e](http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2017)013-e)

<sup>5</sup> The President did not participate in the constitutional commission.

*Opposition Parties Reject Constitution Changes, Boycott Commission*, civil.ge, 22 April 2017, <http://old.civil.ge/eng/article.php?id=30041>

Council – the permanent co-ordinating body reporting to the President on defence and security issues – was abolished. As a result, the security system has become more vulnerable as it lacks a comprehensive legal and institutional framework for defining, planning, implementation, and proper oversight, of security policy.

The new constitution establishes the National Defence Council that will function only during periods of martial law to co-ordinate the work of the constitutional bodies. Many experts agree that this change will limit the government's ability to proactively ensure the protection of national interests during peacetime and to identify the necessary means to respond effectively and in a timely manner to actual security threats.<sup>6</sup>

## THE RISE OF INFORMAL GOVERNANCE

The consolidation of power by the ruling party, GD – following its first victory in the 2012 parliamentary elections – became more pronounced after the party secured a constitutional majority (more than 75% of the seats) in the 2016 parliamentary elections.

The billionaire founder of GD, Bidzina Ivanishvili, who served as the party's first prime minister in 2012-2013, continues to informally govern the country, and in 2017-2018 he started to consolidate control over all branches of power.

According to Freedom House's Nations in Transit report, "informal governance remains one of the key impediments to Georgia's democratic functioning. It is widely understood that the billionaire former prime minister and GD founder Bidzina Ivanishvili exerts informal influence on decision-making processes inside the government.

Informal governance did not start with Ivanishvili; it has long been an integral part of Georgia's political system. However, since Ivanishvili resigned from the premiership in 2013, the nature of decision-making within the existing framework of Georgian informal governance has gone entirely beyond the limits of the law."<sup>7</sup>

6 *The National Security Council will be Abandoned*, 13 December 2017, [http://www.resonancedaily.com/index.php?id\\_rub=2&id\\_artc=42280](http://www.resonancedaily.com/index.php?id_rub=2&id_artc=42280)

7 *Nations in Transit 2018. Georgia Country Profile*, Freedom

For years, GD fiercely opposed even the notion of informal governance. In July 2018, in his first public television interview since his return to a formal political role when he resumed the position of chairman of GD, Ivanishvili claimed that he was just carrying out public oversight "They are confusing informal governance with public oversight," Ivanishvili told Channel 1. "The public put a degree of trust in me and I can use this trust at any moment and criticise any leader [...] We don't have extensive experience of public oversight of the government, and I'm there to fill that gap."<sup>8</sup>

The consolidation of power brought significant institutional changes. In November 2017, then Prime Minister Giorgi Kvirikashvili implemented a major change in the government's structure, including the abolishment of four ministries – the Ministry for European Integration, Ministry of Energy, Ministry of Youth and Sport, and Ministry of Environment Protection and Natural Resources.<sup>9</sup> The functions of these portfolios were allocated to other ministries, and the decision was implemented in three days without any proper consultations or justifications from the side of the government.<sup>10</sup>

Kvirikashvili resigned in June 2018. His departure followed almost two months of spring protests, although it was less a response to criticism from the side of public and civil society, but rather a result of the return of Ivanishvili as the official leader of GD. In his farewell speech, Kvirikashvili said that he disagreed with Ivanishvili over several "fundamental issues".<sup>11</sup>

The spring protests began on 12 May 2018 when thousands of young people, led by the White Noise movement that campaigns for more liberal drug laws, had protested in Tbilisi following raids on night clubs on 11 May by riot police armed with machine guns. The raids

House, [https://freedomhouse.org/sites/default/files/NiT2018\\_Georgia\\_final.pdf](https://freedomhouse.org/sites/default/files/NiT2018_Georgia_final.pdf)

8 *Billionaire's Big Talk on His Big Plans for Georgia. Ivanishvili Holds Forth on his Behind-the-Scenes Decision-Making*, Giorgi Lomsadze, Eurasianet, 27 July 2018, <https://eurasianet.org/billionaires-big-talk-on-his-big-plans-for-georgia>

9 *Four Ministries Abolished and Six Ministers Relieved of Duties*, JAMnews, 15 November 2017, <https://jam-news.net/?p=69328>

10 *Georgia Announces Government Reshuffle, Merger of Several Ministries*, Agenda.ge, 13 November 2017, <http://agenda.ge/en/news/2017/2487>

11 *Georgian PM Giorgi Kvirikashvili Resigns over 'Disagreements with Ivanishvili'*, OC Media, 13 June 2018, <http://oc-media.org/georgian-pm-giorgi-kvirikashvili-resigns-over-disagreements-with-ivanishvili/>



followed reports of five drug-related deaths of young night-clubbers over the preceding fortnight. Partygoers complained that they had been lined up against walls, with machine guns pointed at their backs, and called for the resignation of the Prime Minister.<sup>12</sup>

Subsequently, two groups of rival protesters, respectively calling for more liberal and more restrictive drug laws were kept separated by riot police, close to the parliament in Tbilisi, on 13 May. The polarisation between liberal and conservative forces was evident again on 17 May when liberal groups celebrating International Day Against Homophobia were countered by Orthodox Church groups rallying for Family Purity.

On 31 May 2018, several thousand protesters gathered in Tbilisi on successive nights to protest against “systemic” problems in the Prosecutor’s Office and the judiciary. The demonstrations, continuing on 1-3 June, followed a Tbilisi City Court judgement over the murder of two teenagers in December 2017 amid concerns that the Prosecutor’s Office had concealed some elements of the case.

One of the leaders of the protests, Zaza Saralidze, the father of one of the murdered boys, insisted that people other than the two suspects who were put on trial were responsible for his son’s death. They had escaped punishment, he said, because their relatives worked in the Prosecutor-General’s Office. Chief Prosecutor Irakli Shotadze stepped down on 31 May, but the protests continued, calling for an “independent judiciary”.<sup>13</sup>

Kvirikashvili was replaced as Prime Minister by the Minister of Finance, Mamuka Bakhtadze, who also initiated institutional changes, including the abolishment of the Ministry of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees of Georgia, the Ministry of Culture and Monument Protection, and the Ministry of Corrections and Probation. Again, the changes were implemented without any consultations with civil society despite strong concerns about the Minister of Justice, among others.<sup>14</sup>

12 *Protesters Demand Georgian Prime Minister to Resign after Night Club Raids*, Vestnik Kavkaza, 12 May 2018, <http://vestnikkavkaza.net/news/Protesters-demand-Georgian%C2%A0Prime-Minister-to-resign-after-night-club-raids.html>

13 *Large-Scale Demonstration Underway in Tbilisi*, civil.ge, 31 May 2018, <https://civil.ge/archives/243159>

14 *Georgian NGOs Demand Resignation of Minister of Justice*, JAMnews, 6 June 2018, <https://jam-news.net/?p=106350>

## Undermining the Presidential Institution

President Margvelashvili, after falling out with the ruling party, exercised his veto power over legislation on ten occasions,<sup>15</sup> including the constitutional reforms over concerns at the abolishment of the National Security Council, but also laws on surveillance, the National Bank, local government, and public broadcasting.

His veto was usually wielded in response to concerns raised by CSOs, the Public Defender (Ombudsman) and other voices in society. However, GD was able on each occasion to override the veto with its overwhelming majority rather than addressing the causes of concerns that were reflected by the President.

In January 2018, Tbilisi City Court found former President Mikheil Saakashvili guilty of abuse of power related to pardoning four men convicted of the murder of a banker, Sandro Girgvliani. Saakashvili, living in Ukraine at the time, was sentenced in absentia to three years in prison. This was the first verdict in the Georgian courts against the former president.

President Margvelashvili contended that the judgement was in violation of the constitution since the right to pardon is the President’s prerogative, which means that the President alone makes a decision on issuing a pardon and the decision is not subject to any legal revision. Margvelashvili said that the Prosecutor’s Office had attempted to change the balance of constitutional forces by conducting the case on such legal grounds.<sup>16</sup>

On 28 June 2018, Tbilisi City Court sentenced Saakashvili in absentia to six years in prison after convicting him of abuse of power in a second case. Saakashvili was found guilty of abusing his authority as President by trying to cover up evidence related to the 2005 beating of opposition lawmaker Valery Gelashvili. Saakashvili, who by now was living in the Netherlands, condemned the ruling and charged that it was politically motivated. The court also banned Saakashvili from public office for two years and three months.<sup>17</sup>

15 *Giorgi Margvelashvili – I Used the Right of Veto Ten Times, and in Each Case it was a Mechanism for the Protection of State Institutions*, 1tv, 21 May 2018, <https://1tv.ge/news/giorgi-margvelashvili-vetos-ufleba-10-jer-gamoviyene-10-jerve-es-iy-sakhelmwifo-institutebis-dacvis-meganizmi/>

16 *Saakashvili Sentenced to Three Years in Prison in Georgia, May be Extradited from Ukraine*, JAMnews, 5 January 2018, 6 January 2018, <https://jam-news.net/tbilisi-court-sentences-saakashvili-to-three-years-in-prison/>

17 *Georgia Sentences Saakashvili to Six Years in Prison in Absentia*, OC Media, 29 June 2018, <http://oc-media.org/georgia-sentences-saakashvili-to-6-years-in-prison-in-absentia/>

## PROSPECTS FOR MULTI-PARTY DEMOCRACY

Following their overwhelming defeat at the hands of GD in the 2016 parliamentary elections, the main EU-oriented opposition political parties saw leadership changes and in the case of the biggest opposition party, the former ruling United National Movement (UNM) of Saakashvili, a splintering into two parties, the UNM and European Georgia.

During the 2017 local elections, the opposition parties failed to raise their profile through the attraction of new faces. They neither made a convincing case that they could adequately address people’s concerns nor showed a willingness to co-operate with each other. In addition, the OSCE election observation

mission report noted that “significant differences in donation amounts to contestants distorted the level playing field” in the elections.<sup>18</sup>

The deeply fragmented opposition suffered an overwhelming defeat in almost all *Sakrebulo*s (municipal councils). In Tbilisi, Kakha Kaladze, the former Minister of Energy, was elected mayor with 51%, followed by independent candidate Alexander Elisashvili, who gained more voices (17.5%), than either the UNM candidate (16%) or the Movement for Liberty – European Georgia (EG) candidate (7%).<sup>19</sup>

In 2018, the presidential election marked a significant boost in opposition support and saw the beginnings of more co-operation among the EU-oriented opposition. If sustained, the 2020 parliamentary elections could be a much closer contest than the 2016 elections.

Salome Zurbashvili, nominally an independent presidential candidate, but backed by GD, was born in France to Georgian émigrés. After having served as France’s Ambassador to Georgia, she then served in 2004-2005 as Georgia’s Foreign Minister during the presidency of Saakashvili. She subsequently went into opposition against Saakashvili and endorsed GD ahead of the 2012 parliamentary elections. During the presidential election campaign, Zurbashvili launched an attack on Saakashvili for “starting the war” with Russia over secessionist Tskhinvali (South Ossetia) in 2008, a statement considered a gaffe even by MPs in the ruling GD party.<sup>20</sup>

While GD was confident that Zurbashvili would win outright on the first round on 28 October, she took only 38.6% of the votes, so had to face UNM candidate Grigol Vashadze, who took 37.7%, in a second-round vote, a major boost for the opposition. European Georgia, whose candidate won 11% in the first round, called on its supporters to vote for Vashadze in the

second round.<sup>21</sup> However, following a huge mobilisation by GD, on a 20% higher turnout, Zurbashvili won the second round on 28 November with 59.5% of votes against 40.5% for Vashadze.

The opposition coalition, under the catchphrase Strength in Unity, protested in the streets of Tbilisi on 2 December against the results of the presidential election. Vashadze told the protesters that the country “did not have elections on 28 November; we had violence, blackmail, vote-buying, fake IDs, personal information leaks, criminals acting under the orders of the security services, violations of vote secrecy, carousels, and voiding of tens of thousands of ballot papers.” Vashadze called for early parliamentary elections, contending that “the Georgian Dream no longer enjoys the political mandate and public trust for ruling the country”.<sup>22</sup>

The election runoff was “competitive and candidates were able to campaign freely” and the election day “proceeded in an orderly manner despite a tense competitive environment”, according to the preliminary joint findings of the OSCE and other international observers. However, “one side enjoyed an undue advantage and the negative character of the campaign on both sides undermined the process”, according to the statement.

The report detailed “incidents of the misuse of administrative resources and the announcement of a series of social and financial initiatives”, noting that these incidents “and the involvement of senior state officials from the ruling party in the campaign continued to blur the line between the state and the [ruling] party”.<sup>23</sup>

On 17 December, Vashadze announced “non-stop” protest rallies beginning on 18 December. Gigi Ugulava, general secretary of European Georgia, said on 17 December that there had to be “a joint [opposition] platform”

18 *Georgia. Local Elections, 21 October and 12 November 2017, OSCE/ODIHR Election Observation Mission Final Report*, Office for Democratic Institutions and Human Rights, Organization for Security and Co-operation in Europe (pp. 4-5 Background and Political Context), 23 February 2018, <https://www.osce.org/odihr/elections/georgia/373600?download=true>

19 *Georgian 2017 Municipal Election Results in Maps*, civil.ge, 25 October 2017, <https://old.civil.ge/eng/article.php?id=30572>

20 *Presidential Candidate Zurbashvili Claims Georgia Started August 2008 War*, Georgia Today, <http://georgiatoday.ge/news/11763/Presidential-Candidate-Zurbashvili-Claims-Georgia-Started-August-2008-War>

21 *Presidential Elections in Georgia: Why is the Ruling Party Talking about Civil War?* JAMnews, 1 November 2018, <https://jam-news.net/presidential-elections-in-georgia-why-is-the-ruling-party-talking-about-civil-war/>

22 *Opposition Coalition Rallies, Calls for Early Parliamentary Elections*, civil.ge, 3 December 2018, <https://civil.ge/archives/269831>

23 *International Election Observation Mission Georgia – Presidential Election, Second Round, 28 November 2018. Statement of Preliminary Findings and Conclusions*, OSCE, <https://www.osce.org/odihr/elections/georgia/404642?download=true>

for the purpose of securing full proportional representation for the parliamentary elections due in 2020.<sup>24</sup>

## A FREE, BUT POLARISED, MEDIA

The media landscape in Georgia remains pluralistic and vibrant, but it is also highly polarised.<sup>25</sup> Concerns abound about pressure and interference in the editorial policies of independent media organisations and legal challenges against media owners.<sup>26</sup>

The appointment at the beginning of 2017 of a new Director of the Georgian Public Broadcaster (GPB) – Vasil Maglaperidze, a former employee of Ivanishvili’s Private TV company GDS – significantly influenced the editorial policies of GPB. A number of political affairs programmes were closed down,<sup>27</sup> and concerns grew regarding media standards and political bias in news coverage. The trend was highlighted by opinion polls. According to 68% of the population, Georgian broadcasters disseminate fake news.<sup>28</sup>

At the beginning of 2018, President Margvelashvili vetoed amendments to the law on the public broadcaster. He shared the assessment of CSOs and private broadcasting companies that the law would serve as an instrument to increase the corruption risks and lack of transparency in the activities of the public broadcaster, reduce public control mechanisms (by exempting GPB from public procurement legislation), and create an uncompetitive environment in the advertising sector. The parliament overrode the presidential veto on 22 February 2018.

<sup>24</sup> *European Georgia Calls for Opposition Co-ordination over Proportional Elections*, civil.ge, 17 December 2018, <https://civil.ge/archives/271387>

<sup>25</sup> *Pluralist But Not Yet Independent*, Reporters without Borders, 2017, <https://rsf.org/en/georgia>

<sup>26</sup> *Iberia TV Journalists Speak about Threat of Shutting Down TV Channel*, Georgia Today, 14 September 2018, <http://georgiatoday.ge/news/12268/Iberia-TV-Journalists-Speak-about-Threat-of-Shutting-Down-TV-Channel>

<sup>27</sup> The television shows closed down on the Georgian Public Broadcaster included “Red Zone,” hosted by Gogi Gvakharia, and “Interview”, hosted by Salome Asatiani.

<sup>28</sup> *Opposition Parties Slam Public Broadcaster for Closing Several TV Talk Shows*, Tabula, 17 June 2017, <http://www.tabula.ge/en/story/121203-opposition-parties-slam-public-broadcaster-for-closing-several-tv-talk-shows>

<sup>28</sup> *Public Opinion Survey, Residents of Georgia, 10-22 April 2008*, page 8, Center for Insights in Survey Research for International Republican Institute, [http://www.iri.org/sites/default/files/2018-5-29\\_georgia\\_poll\\_presentation.pdf](http://www.iri.org/sites/default/files/2018-5-29_georgia_poll_presentation.pdf)

The dispute over the ownership of the private television station, Rustavi 2, continued. In March 2017, the Supreme Court ruled out the transfer of ownership rights to the station’s former owner. On 7 March, the European Court of Human Rights decided to suspend “until further notice” the enforcement of the Supreme Court’s decision. The European Court also ruled that the Georgian authorities should abstain from interfering with the company’s editorial policies.<sup>29</sup> Due to the ongoing court case, Rustavi 2 experienced significant financial problems.<sup>30</sup>

Another incident challenged notions of media freedom in Georgia in 2017 was the abduction of Afgan Mukhtarli, an exiled Azerbaijani journalist who was working on investigative reports into the business activities of the family of Azerbaijan’s President Ilham Aliyev. In May 2017, the exiled Azerbaijani journalist was abducted in Georgia and illegally taken across the border to Azerbaijan, where he was sentenced to six years in prison on bogus charges.

In testimony submitted by Mukhtarli to the Chief Prosecutor’s Office of Georgia, he stressed that “the government of Georgia, the criminal police, the border police and the head of Lagodekhi customs border checkpoint are directly connected” to his kidnapping. According to the OSCE Representative on Freedom of the Media, Harlem Désir, the case of Mukhtarli’s abduction raised concerns regarding Georgia’s ability to provide a safe environment for journalists.<sup>31</sup>

## THE CLASH OF THE LIBERALS AND ULTRA-CONSERVATIVES

Xenophobic, ethno-nationalist, homophobic, and ultra-conservative forces marched against the immigrants in 2017, and – fed by the narrative that Europeanisation is a threat to Georgian culture and identity – continued to press anti-western messages during 2018.

<sup>29</sup> *ECHR Extends Ruling over Rustavi 2 TV*, civil.ge, 7 March 2017, <https://civil.ge/archives/126218>

<sup>30</sup> *Georgia: Media Freedom at Risk, Possible Government Interference with Judiciary, Media*, Human Rights Watch, 7 March 2017, <https://www.hrw.org/news/2017/03/07/georgia-media-freedom-risk>

<sup>31</sup> *OSCE Media Freedom Representative Concludes Country Visit to Georgia, Addresses Reforms and Developments Affecting Media Freedom*, OSCE, 4 October 2017, <https://www.osce.org/fom/347741>



In 2017, the Media Development Foundation released a report analysing anti-western messages in Georgian media in 2016. According to the report, a predominant view was that the West was trying to impose homosexuality, incest, paedophilia, zoophilia, and perversion, and was fighting against Georgian national identity, traditions, Orthodox Christianity, and the family as a social institution.<sup>32</sup> Subsequent monitoring of the media in 2017 revealed a new dominant topic – the demonisation of Georgia's strategic partners (USA, NATO, EU).<sup>33</sup>

This demonisation was vividly clear when the protests – under the slogan “we dance together, we fight together” – emerged on 11 May 2018, after the armed special forces raided the two most popular techno clubs in the city. The rally, part of the spring protests mentioned above, was led by the White Noise movement, a citizens' movement inspired by the European model where drug use is primarily a public health problem rather than a criminal offence.<sup>34</sup>

Almost immediately, some media outlets started to claim that the protesters were drug addicts and dealers. The contra-rally, organised by xenophobic, ethno-nationalist, homophobic, and ultra-conservative forces, surrounded the peaceful protest, threatening physical attacks against the protesters. The government has produced no long-term strategy to respond to, and prevent, the rising xenophobic, homophobic and anti-immigration rhetoric in Georgia which, in the words of Giorgi Gogvadze, Deputy Director at the Georgian Center for Security and Development (GCSD), “pours water on Russia's mill”, which tries to move Georgia out from the West's orbit, where the country has been heading since gaining independence from the Soviet Union.<sup>35</sup>

According to a June 2018 public opinion poll, only 23% of Georgians thought that the

32 *Anti-Western Propaganda. Media Monitoring Report 2016*, Tamar Kintsurashvili, Media Development Foundation, 2017, [http://mdfgeorgia.ge/uploads/library/65/file/eng/Antidasavluri-ENG-web\\_\(2\).pdf](http://mdfgeorgia.ge/uploads/library/65/file/eng/Antidasavluri-ENG-web_(2).pdf)

33 *Anti-Western Propaganda*, Tamar Kintsurashvili, Media Development Foundation, 2018, <http://mdfgeorgia.ge/uploads/library/89/file/eng/AntiWest-2017-ENG.pdf>

34 *The First Protest Expressed Through Massive Rave to Electronic Music in Tbilisi*, Georgian Journal, 14 May 2018, <https://www.georgianjournal.ge/society/34483-the-first-protest-expressed-through-massive-rave-to-electronic-music-in-tbilisi.html>

35 *Georgia's Growing Cultural Divide: A Sign of Far-Right Populism?* Tako Svanidze, openDemocracy, 16 July 2018, <https://www.opendemocracy.net/od-russia/tako-svanidze/georgia-growing-cultural-divide>

protection of the rights of sexual minorities was important, while 44% consider that it was not important and 26% took a neutral position.<sup>36</sup> On 17 May 2018, LGBT activists cancelled a rally to celebrate the International Day Against Homophobia, Transphobia, and Biphobia, planned to take place in Tbilisi, due to heightened security concerns in the face of unprecedented mobilisation of hostile groups, announcing plans to stage unrest and confrontation. The Public Defender's Report 2018 pointed out that representatives of the LGBT community were subject to discrimination in almost in all sectors.<sup>37</sup>

Femicide is an additional hate-crime of serious concern. In 2015-2017, 76 women were killed<sup>38</sup>. There were attempts to pass a law on Femicide in 2016 and 2017, but both times it failed to pass. In January 2018, the Ministry of Internal Affairs opened the Department of Human Rights Protection, which should address the issues such as domestic violence, violence against women, gender-motivated hate crimes, crimes against children and human trafficking. The police launched a mobile phone application that sends a silent alert signal to the emergency response services in case the application user is confronted with violence.<sup>39</sup>

## CRONYISM AND CORRUPTION RISKS PERSIST IN ABSENCE OF JUSTICE REFORMS

The independence of the judiciary continues to be one of the most challenging issues facing Georgia. The GD government has largely failed to address the systemic problems prevalent in the judicial system, while the risks of corruption, nepotism and conflicts of interest in the justice system have increased. According to opinion polls, the level of trust in the courts and the Prosecutor's Office (13%) remains lower than in other institutions.<sup>40</sup>

36 *Public Attitudes in Georgia. Results of June 2018 Survey Carried out for NDI by CRRC Georgia*, National Democratic Institute, [https://www.ndi.org/sites/default/files/NDI\\_June\\_2018\\_Presentation\\_Public\\_ENG\\_vf.pdf](https://www.ndi.org/sites/default/files/NDI_June_2018_Presentation_Public_ENG_vf.pdf)

37 *Annual Report of the Public Defender of Georgia 2018*, <http://www.ombudsman.ge/uploads/other/5/5337.pdf>

38 *Killing Women Because of Their Gender – Femicide Monitoring Results*, Radio Free Europe/Radio Liberty, 18 June 2018, <https://bit.ly/2N60NMd>

39 Police presentation of the new mobile application: <http://police.ge/en/shss-s-momsakhurebis-saagentom-akhali-mobiluri-aplikatsiisa-da-skhva-inovatsiuri-servisebis-shesakheb-prezentatsia-gamarta/10741>

40 *Public Attitudes in Georgia. Results of June 2018 Survey*

The so-called third wave reform in 2017 neither resulted in the increased accountability and independence of judges, nor eradicated cronyism among the dominant group of judges, especially in the High Council of Justice (HCJ). The President, the Public Defender, and the Coalition for an Independent and Transparent Judiciary registered grave concerns regarding a number of aspects, including the flawed process for selecting judges at all court levels – many to lifetime appointments – that left the judiciary vulnerable to political influence in politically sensitive cases.

At the end of July 2018, Nino Gvenetadze, the chairwoman of the Supreme Court, unexpectedly resigned from her position.<sup>41</sup> The step was assessed by watchdogs as an alarming development, taking into account that in November 2017 Gvenetadze had spoken about the pressure on her from the side of the HCJ, yet no investigation was launched into her claims.

Independent monitoring of the HCJ revealed that the Council failed to properly put into practice the third wave of judicial reforms. The reforms should have eradicated the flaws in the process of appointment of judges, but no progress was achieved. Progress was not made vis-à-vis the disciplinary liability of judges (for instance, the Independent Inspector was appointed with a substantial delay).

The all-out resistance to critical or dissenting opinions persists in the new composition of the Council, preventing substantive discussions and justification of decisions. The accountability system vis-à-vis judges remains ineffective, perpetuating the threat to their independence, and the practice of appointing the chairs of courts, chambers and judicial panels continues without transparent procedures. The legislation has shortcomings that leave open a wide range of possibilities for the Council to take ungrounded and subjective decisions.<sup>42</sup>

According to the Transparency International 2017 Corruption Perceptions Index (CPI),

*Carried out for NDI by CRRC Georgia, National Democratic Institute* [https://www.ndi.org/sites/default/files/NDI\\_June\\_2018\\_Presentation\\_Public\\_ENG\\_vf.pdf](https://www.ndi.org/sites/default/files/NDI_June_2018_Presentation_Public_ENG_vf.pdf)

<sup>41</sup> *Supreme Court Chair Nino Gvenetadze Steps Down*, civil.ge, 2 August, 2018, <https://civil.ge/archives/248233>

<sup>42</sup> *High Council of Justice of Georgia Monitoring Report N6*, Transparency International Georgia, 28 June 2018, <https://www.transparency.ge/ge/post/iusticiis-umaglesi-sabchos-monitoringis-angarishi-n6>

Georgia ranks 46th out of 180 countries ahead of the other EaP countries.<sup>43</sup>

<sup>43</sup> *Corruption Perceptions Index 2017 Shows High Corruption Burden in More Than Two-Thirds of Countries*, 21 February 2018, Transparency International, [https://www.transparency.org/news/pressrelease/corruption\\_perceptions\\_index\\_2017\\_shows\\_high\\_corruption\\_burden\\_in\\_more\\_than](https://www.transparency.org/news/pressrelease/corruption_perceptions_index_2017_shows_high_corruption_burden_in_more_than)

## Failures of Justice Prompt Street Protests Against Law Enforcement Bodies

There is no effective parliamentary and civilian oversight or judicial control over the activities of the law enforcement bodies and security services. Instances of human rights abuses (allegations of excessive use of force, inhuman treatment, planting of drugs, etc.) are generally not followed up with effective and objective investigations.

Some cases of police abuse (including torture) were investigated by the Prosecutor's Office. While the gravity and scale of ill-treatment cases are not as severe as they were before 2012, the efficiency of the state's response to such cases in terms of independent, speedy and effective investigations remains inadequate.<sup>44</sup> In November 2017, the European Court of Human Rights made a final decision regarding the case of former Prime Minister Vano Merabishvili, who has been in prison in Georgia since 2013 on charges of abuse of power. The court ruled that the arrest and pre-trial detention of Merabishvili were not based on reasonable suspicion and had been carried out in order to remove him from the political scene.<sup>45</sup>

After the murder of two schoolboys in the centre of Tbilisi in December 2017 was followed by the court sentencing of one defendant for murder and another for attempted murder, outrage resulted in huge rallies in May 2018. The Chief Prosecutor resigned, as it became clear that there no proper investigation had been carried out due to the involvement in the case of the relatives of high officials. The same day, the parliament approved the creation of an Independent Parliamentary Commission to investigate the case, recognising the total failure of the investigation by the Prosecutor's Office. The Parliamentary Commission's mandate was to reveal, study, and analyse unlawful activities related to this particular case.

According to a statement by CSOs, the Commission once again revealed the systemic problems in law enforcement structures, as well as critical challenges hindering independent and professional investigations. The CSOs called on the government to start preparations for a fundamental reform of the Ministry of Internal Affairs and the Prosecutor's Office.<sup>46</sup>

Another important problem was illustrated by the case of Temirlan Machalikashvili, who was shot in the head by counterterrorism forces of the security services when they burst into his home in Pankisi on 26 December 2017. The investigation into the case was launched by the state security service itself, raising concerns about the legality of the actions undertaken and the independence of the investigation.<sup>47</sup> The Georgian authorities continued to disregard CSOs' criticisms regarding the ineffective investigation and made counterclaims that the CSOs were undermining the fight against terrorism.<sup>48</sup>

<sup>44</sup> *What Should EU do to Foster Accountability and Democratic Oversight of Law Enforcement Agencies in Georgia*, Ana Natsvlshvili, Georgian Young Lawyers Association (GYLA)/Open Society Georgia Foundation, December 2017, [http://www.osgf.ge/files/2018/Publications/Judiciary\\_ENG\\_1.pdf](http://www.osgf.ge/files/2018/Publications/Judiciary_ENG_1.pdf)

<sup>45</sup> *Initially Justified Pre-Trial Detention of Former Prime Minister of Georgia Later Unduly Used as a Means to Exert Pressure on Him*, Press Release, European Court of Human Rights, 28 November 2017, <https://hudoc.echr.coe.int/eng-press?i=003-5927865-7571644>

<sup>46</sup> *NGOs' Statement Concerning Findings and Recommendations by Temporary Investigative Commission on Khorava Street Crime*, Georgian Young Lawyers Association, 18 September 2018, <https://gyla.ge/en/post/arasamtavrobo-organizaciebis-ganckhadeba-khoravas-quchaze-momkhdari-danashaulis-shemstsavleli-droebiti-sagamodziebo-komisiis-daskvnastan-da-rekomendaciebtan-dakavshirebit#sthash.1M35BxDI.eVPZXQEU.dpbs>

<sup>47</sup> *'Leaked Evidence' Links Pankisi's Temirlan Machalikashvili to Terror Groups*, OC Media, 3 July 2018, <http://oc-media.org/leaked-evidence-links-pankisis-temirlan-machalikashvili-to-terror-groups/>

<sup>48</sup> *EMC Requests a Thorough Assessment of Legal Liability of Employees of the State Security Service on Machalikashvili's Case*, Human Rights Education and Monitoring Center (EMC), 26 January 2018, <https://emc.org.ge/en/products/machalikashvilis-sakmeze-emc-sus-is-tanamshromlebis-samartlebrivi-pasukhismgeblobis-qovlismomtsvel-shefasebas-itkhovs>

However, public opinion polls disclosed that 44% of the population thought that there was a high level of corruption in government, a view echoed by CSOs and expert opinions.<sup>49</sup> According to a number of watchdog groups,<sup>50</sup> the government failed, overall, to take “adequate measures” to prevent, detect and address high-level corruption.

There were clear gaps in terms of the enforcement of existing regulations against corruption and conflicts of interest, and shortcomings when it came to investigating and prosecuting possible cases of high-level corruption (either proactively by the authorities or in response to revelations reported by other actors, such as the media and civil society). There was a clear need for the enforcement and strengthening of the role and capacities of independent agencies (such as the State Audit Service and the Procurement Agency).

Transparency International Georgia conducted research into corruption risks in the judiciary,<sup>51</sup> including an assessment of risks in the Common Courts system. The report negatively assessed existing legislation, especially recent changes that strengthened the interests and positions of a dominant group of judges, mainly HCJ members, which have leverage to launch disciplinary proceedings, reallocate cases, appoint, remove or promote judges, set salary supplements for judges, and appoint court chairs. The selection and lifetime appointment of judges, whose past judicial record attested to their inadequate professional reputation, raised an outcry in Georgian society.

Ana Dolidze, a non-judicial member of the HCJ, openly stated that increased corruption in the court system would have a drastic impact on the economic situation in the country as it undermined trust in the court system from the side of the business community.<sup>52</sup>

49 *Results of June 2018 Public Opinion Polls in Georgia*, National Democratic Institute, 1 August 2018, <https://www.ndi.org/publications/result-june-2018-public-opinion-polls-georgia>

50 Transparency International Georgia (<https://www.transparency.ge>), Georgian Young Lawyers Association ([www.gyla.ge](http://www.gyla.ge)), Open Society Georgia Foundation ([www.osgf.ge](http://www.osgf.ge)), Institute for Development of Freedom of Information (<https://idf.ge/en>), Green Alternative ([www.greenalt.org](http://www.greenalt.org)), Human Rights Education and Monitoring Center (EMC) ([emc.org.ge](http://emc.org.ge)), and others.

51 *Corruption Risks in Georgian Judiciary*, 5 July 2018, Transparency International Georgia, <https://www.transparency.ge/en/post/corruption-risks-georgian-judiciary>

52 *Businesses State that Corruption is Constantly Increasing*, metronone.ge, 25 September 2018, <https://bit.ly/2DBAkHb>

## STRONGER DEMOCRATIC CONTROLS NEEDED TO ENHANCE CO-OPERATION WITH EU IN DEFENCE AND SECURITY SECTORS

Georgia continued to participate in EU-led crisis management missions (EUTM RCA, EUTM Mali),<sup>53</sup> as well as in bilateral and multilateral co-operation with the EU within the framework of the EU's Common Security and Defence Policy (CSDP).

The EU Monitoring Mission (EUMM) continued to act as the only effective monitoring mechanism in the vicinity of the Russia-occupied territories of Abkhazia and South Ossetia to ensure that there would be no return to hostilities in the immediate future. It should be stressed that while the EUMM's mandate is valid throughout all of Georgia, the de facto authorities in Abkhazia and South Ossetia continued to deny the EUMM access to the territories under their control.<sup>54</sup>

According to the Association Agenda between the EU and Georgia for 2017-2020 and the corresponding National Action Plan 2017, democratic reforms in defence and security institutions were envisaged.<sup>55</sup>

Democratic oversight of the Ministry of Defence and other security institutions is essential to the support of ongoing reforms in the defence and security sector. The Georgian experience shows that the existing constitutional arrangements meet the main internationally recognised norms and practices of democratic oversight of the security services and the armed forces.<sup>56</sup>

However, the majority-controlled parliamentary committee on defence and security and the Group of Confidence, established by the parliamentary committee to exercise budgetary control and oversight of the defence

53 EU Training Mission (EUTM) to Central African Republic and EUTM to Mali.

54 EU Monitoring Mission in Georgia: [https://eumm.eu/en/about\\_eumm/mandate](https://eumm.eu/en/about_eumm/mandate)

55 *Association Agenda between the European Union and Georgia 2017-2020*, European External Action Service, [https://eeas.europa.eu/sites/eeas/files/annex\\_ii\\_-\\_eu-georgia\\_association\\_agenda\\_text.pdf](https://eeas.europa.eu/sites/eeas/files/annex_ii_-_eu-georgia_association_agenda_text.pdf)

56 *Oversight of the Security Sector by Parliaments and Civil Society in the Caucasus: Cases of Armenia, Georgia and Azerbaijan*, Kakha Gogolashvili, Georgia Foundation for Strategic and International Studies, September 2016, <http://www.cascade-caucasus.eu/wp-content/uploads/2016/11/D5.2.pdf>



and security sector, have to date opted for less rigorous control so as to avoid political confrontation between the legislative and executive branches of power. For its part, given the sensitivity of defence-and security related matters, the opposition has also been reluctant to criticise and scrutinise defence structures. The current shortcomings in the exercise of parliamentary oversight of defence and security institutions, and in the support provided by the State Audit Office and the judiciary, mean that human rights abuses and the politicisation of relevant security institutions are likely to be continued.

Civil society, the media and independent institutions have become increasingly aware that it is essential to establish democratic oversight over the defence and security institutions in order to ensure their efficient functioning, avoid human rights abuses and curb the excessive use of force by law enforcement bodies.

NATO, the EU and other organisations play a crucial role in promoting co-operation among security sector institutions, civil society, the media and partner state governments, a process that entails the potential to develop the capacity of the government to prevent abuse and better manage the defence and security sector in full compliance with the rule of law and international regulations, including human rights law.

## STRONG ECONOMIC GROWTH MARRED BY INCREASING INEQUALITY

The government expressed high-level political support to prioritising the Sustainable Development Goals (SDG) and Georgia set 17 goals, 99 targets and more than 200 indicators, with the ambition to implement all 169 targets by 2030. To monitor SDG implementation, the Sustainable Development Council was established with four thematic working groups on respectively social inclusion, economic development, democratic governance, and sustainable energy and environmental protection.

However, Georgia lagged behind in transforming economic achievements into attainment of the SDGs. The overall GDP

growth rate of 5% in 2016-2017 was led by the trade, construction, and transport sectors in an improved external environment. Georgia's foreign trade turnover year-on-year increased by 13.8% in 2017, reaching US\$10.7bn.<sup>57</sup> Trade turnover with EU member states stood at US\$2.84bn in 2017<sup>58</sup>, a 2% increase over 2016. Agriculture accounted for the majority of exports.<sup>59</sup>

In order to ensure that DCFTA and the opening to the EU's markets will have a positive impact not only on large agricultural conglomerates, but also small farmers, "the government should engage with and listen to smallholders, discover what their responses to the DCFTA are, and build on them," writes Thomas Lines in a research study for Oxfam GB. "Without compensating changes in policy for smallholders, there is a danger that while Georgia's exports may expand, perhaps mostly in services and possibly wine, there will be little or no benefit for most of the farming population as the gains accrue to Tbilisi and a few other cities. To avoid this, it is vital to work for rapid agricultural and rural development alongside integration with EU markets."<sup>60</sup>

Despite the 5% GDP growth, as UNICEF research shows, poverty levels increased in Georgia over the past two years. The share of the population below the poverty level increased, while the highest growth in poverty was registered among children. The share of the population living in general poverty increased from 18.4% to 21.7%,<sup>61</sup> while the number of children living in general poverty increased from 21.7% to 27.6%. The relative poverty figures<sup>62</sup> also showed a rise, where the number of children living below the relative poverty line

57 *External Trade*, National Statistics Office of Georgia, [http://www.geostat.ge/index.php?action=page&p\\_id=134&lang=eng](http://www.geostat.ge/index.php?action=page&p_id=134&lang=eng)

58 *Georgian Exports by Country Groups 1995-2018*, National Statistics Office of Georgia, [http://www.geostat.ge/cms/site\\_images/\\_files/english/bop/2018/Export%20\\_Country\\_Group%201995-2018\\_eng.xlsx](http://www.geostat.ge/cms/site_images/_files/english/bop/2018/Export%20_Country_Group%201995-2018_eng.xlsx)

59 *Georgian Exports by Commodity Position 2000-2018*, National Statistics Office of Georgia, [http://www.geostat.ge/cms/site\\_images/\\_files/english/bop/2018/Export-Products-2000-2018\\_eng.xlsx](http://www.geostat.ge/cms/site_images/_files/english/bop/2018/Export-Products-2000-2018_eng.xlsx)

60 *Research on DCFTA Impact on Small-Holder Farmers in Georgia*, Thomas Lines, Oxfam GB, September 2017, <http://www.bridge.org.ge/en/publications/research/2017-09-12-research-on-dcfta-impact-on>

61 when a person's daily consumption is less than US\$2.5 per day, equivalent to GEL 165.5 per month for an adult.

62 Relative poverty shows which part of the population consumes less than 60% of the median [average] consumption of the population, or GEL 177 per month for an adult.

increased from 26.8% to 31.6%. Poverty rose despite increased domestic household income due to the significant increase in consumer prices (food, healthcare, transport) and the

## High Accident Rate Cries Out for Improvements in Safety Rights at Work

The protection of labour rights accounts for a significant part of the EU-Georgia integration policy, and it was highlighted in the Partnership and Co-operation Agreement (PCA), ENP Action Plans, and Visa Liberalisation Action Plan. The EU-Georgia Association Agreement and Association Agendas for 2014-2016 and 2017-2020 also underlined the establishment of a Labour Code in line with International Labour Organization (ILO) standards as a priority.

Agenda 2017-2020 defines as a priority the task of ensuring that the labour inspection system in the area of occupational health and safety has supervisory functions and removing legislative restrictions on the powers of inspectors.<sup>63</sup> The absence of effective supervision and enforcement of labour standards and rights is a mounting concern, especially in the light of a series of severe accidents at work in recent years. From 2011 to 2016, 776 people were injured and 270 died as a result of work-related accidents.<sup>64</sup> In 2017 alone, the death toll reached 41 with 77 injured.

After the tragedy at the Tkibuli Elizbar Mindeli mine that led to the death of four miners, the Public Defender called for properly implemented safety regulations, and an unprecedented statement was issued by the Ambassadorial Working Group (a group of Tbilisi-based foreign ambassadors).<sup>65</sup>

On 7 March 2018, the parliament introduced new amendments on occupational health and safety<sup>66</sup> that would cover only 11 preselected types of hazardous and dangerous sectors.<sup>67</sup> According to the amendments, the Labour Inspection Department under the Ministry of Health and Labour would be empowered to inspect – without prior notice – state institutions and private companies for violations of labour rights. Inspectors would be able to issue fines between GE 100 (ca €32) and GEL 50,000 GEL in the event of the violation of safety standards from 2018 onwards, while provisions concerning the compulsory insurance of employees against accidents would come into force from 1 January 2019.

Both trade unions and CSOs criticised law for the failure to cover all labour sectors and the lack of incentives for employers to increase occupational health and safety.<sup>68</sup> A further 10 workers died in several accidents at the Tkibuli Elizbar Mindeli mine in the first seven months of 2018.<sup>69</sup> In July 2018, after an accident in Tkibuli mine, the Parliamentary Speaker, Irakli Kobakhidze, blamed the previous government for the introduction of ineffective legislation.

63 *Association Agenda between the European Union and Georgia 2017-2020*, European External Action Service, page 22, [https://eeas.europa.eu/sites/eeas/files/annex\\_ii\\_-\\_eu-georgia\\_association\\_agenda\\_text.pdf](https://eeas.europa.eu/sites/eeas/files/annex_ii_-_eu-georgia_association_agenda_text.pdf)

64 *Deficiencies of the Current Labour Safety Reform in Georgia*, Lina Ghvinianidze, Human Rights Education and Monitoring Center (EMC)/ Open Society Georgia Foundation, December 2017, <https://emc.org.ge/en/products/shromis-usaftrkxhoebis-mimdinare-reformis-naklovanebebi>

65 *Ambassadorial Working Group Statement on the Tkibuli Mine Accident*, UN in Georgia, 12 May 2017, [http://www.ungeorgia.ge/eng/news\\_center/media\\_releases?info\\_id=529#.XFYNE8\\_0nR0](http://www.ungeorgia.ge/eng/news_center/media_releases?info_id=529#.XFYNE8_0nR0)

66 *Georgia's Parliament Adopts Labour Safety Law*, OC Media, 8 March 2018, <http://oc-media.org/georgias-parliament-adopts-labour-safety-law/>

67 *Georgian Parliamentary Committee Approves Higher Fines for Labour Safety Violations*, OC Media, 16 February 2018, <http://oc-media.org/georgian-parliamentary-committee-approves-higher-fines-for-labour-safety-violations/>

68 *Equality in Labour Relations (Georgian Legislation in the Context of EU Equality Directives)*, Lina Ghvinianidze, Human Rights Education and Monitoring Center (EMC)/ Open Society Georgia Foundation, 2018, <https://emc.org.ge/en/products/tanastoroba-shromit-urtiertobebshi>

69 *Deficiencies of the Current Labour Safety Reform in Georgia*, Lina Ghvinianidze, Human Rights Education and Monitoring Center (EMC), Open Society Georgia Foundation, December 2017, <https://emc.org.ge/en/products/shromis-usaftrkxhoebis-mimdinare-reformis-naklovanebebi>

depreciation of the national currency. The research also indicates that inflation affected low-income families more compared with high-income families.<sup>70</sup> According to the National Statistics Office, the Gini coefficient measure of inequality by total consumption expenditures increased by 1% in comparison with 2017 and reached 45.<sup>71</sup>

Despite a number of ongoing reforms in the health sector, including the introduction of the common healthcare insurance programme, a number of health indicators are worse than the averages for both the European region and the Commonwealth of Independent States (CIS). According to the World Health Organization (WHO), the maternal mortality rate was the highest across the region (36 per 100 000 live births).<sup>72</sup>

## EU GRANTS VISA-FREE TRAVEL, BUT RISE IN ASYLUM CLAIMS JOLTS EU MEMBERS

The introduction of visa-free short-stay travel to the EU, effective from 28 March 2017, counts as one of the major achievements towards Georgia's EU integration. However, the European Commission's report in December 2017 regarding the mechanism for the suspension of visa-free travel raised significant concerns.<sup>73</sup> The report, in accordance with the data of Eurostat, signalled that the number of Georgians seeking asylum in the EU, or remaining there illegally, had increased since the introduction of the visa-free regime.

A number of EU figures, including in March 2018 German Interior Minister Thomas de Maizière, said that if the number of visa-free regime violations from Georgia to the EU increased further, the suspension mechanism might be activated.<sup>74</sup>

70 *UNICEF Annual Report 2017 Georgia*, [https://www.unicef.org/about/annualreport/files/Georgia\\_2017\\_COAR.PDF](https://www.unicef.org/about/annualreport/files/Georgia_2017_COAR.PDF)

71 *Gini Coefficients 2017*, National Statistics Office of Georgia, [http://www.geostat.ge/cms/site\\_images/\\_files/english/calendar/households/2017/Gini%20Coefficients\\_2017.xls](http://www.geostat.ge/cms/site_images/_files/english/calendar/households/2017/Gini%20Coefficients_2017.xls)

72 *Annex A. Summaries of Selected Health-Related SDG Indicators*, World Health Organization, [http://www.who.int/gho/publications/world\\_health\\_statistics/2018/EN\\_WHS2018\\_AnnexA.pdf?ua=1](http://www.who.int/gho/publications/world_health_statistics/2018/EN_WHS2018_AnnexA.pdf?ua=1)

73 *Are We in Danger of the Suspension of Visa-Free Travel with the European Union in the Nearest Future?* Kakha Gogolashvili, Georgian Foundation for Strategic and International Studies, 2 September 2018, <https://www.gfsis.org/blog/view/793>

74 *Challenges of Country Visa Liberalisation: Political Context*

The European Commission report noted that while Georgia continued to implement reforms in the fields of migration and integrated border security management, as well as combating corruption and organised crime, a number of challenges remained. “Since the last visa liberalisation report, OCGs [organised crime groups] from Georgia are still reported as one of the most frequently represented non-EU nationalities involved in serious and organised crime in the EU. Georgian OCGs are highly mobile, are mainly involved in organised property crime (particularly organised burglaries and thefts) and especially active in France, Greece, Germany, Italy and Spain.

“These OCGs are particularly threatening to the EU because their activities are often dismissed as low intensity crime, their control of criminal markets is gradually increasing, and they co-operate with other non-EU OCGs. Georgia remains a transit country for various illicit commodities trafficked to the EU, in particular drugs. Georgia has been increasingly used to launder illicit proceeds generated by various OCGs in the EU and outside the EU and has been emerging as a transit country for laundered criminal proceeds.”<sup>75</sup>

The government of Georgia responded to the threat by tightening regulations with a view to reducing the number of Georgian asylum seekers, including a set of legislative amendments to toughen procedures for changing surnames, and carrying out awareness-raising activities among the population. The authorities also increased co-operation with a number of member states, in particular with Germany, in order to accord Georgia with “safe country of origin” status. The first EU member states to give Georgia this status were Austria, Belgium, Bulgaria, France, the Netherlands, and Luxembourg.

Georgia continued to fulfil the visa liberalisation benchmarks, but further efforts were needed to address irregular migration challenges, the European Commission reported in its assessment report on 19 December 2018, reported civil.ge. The report states that “while concrete measures have been put in place to address irregular migration challenges, further

and Statistics, Mariam Grigalashvili, Mikheil Sardjveladze, Georgian Institute of Politics, 5 April 2018, [http://gip.ge/wp-content/uploads/2018/04/Visaliberalisation%20Eng\\_Mtliani.pdf](http://gip.ge/wp-content/uploads/2018/04/Visaliberalisation%20Eng_Mtliani.pdf)

<sup>75</sup> Report from the Commission to the European Parliament and the Council. First Report Under the Visa Suspension Mechanism [Swd(2017) 480 Final], page 11, European Commission, 20 December 2017, [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-is-new/news/20171220\\_first\\_report\\_under\\_suspension\\_mechanism\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-is-new/news/20171220_first_report_under_suspension_mechanism_en.pdf)

immediate action is needed to address these challenges, including increasing numbers of unfounded asylum applications”.

According to the report, 9,680 asylum applications were submitted in the first half of 2018 compared with 4,770 in the same period of 2017. The report listed Germany and France as the top two destination countries for Georgian asylum-seekers, but stated that Georgia’s co-operation on readmission and return “is functioning well and should be continued”.<sup>76</sup>

## UNEMPLOYMENT TOPS GEORGIANS’ CONCERNS

According to the EU Attitudes Survey conducted in 2017 by EU Neighbours East/ECORYS, 74% of those Georgian citizens aware of EU financial support to their country considered the support to have been effective – a figure considerably higher than in the other five EaP countries.<sup>77</sup> In the 2018 survey, however, only 59% considered the support effective, while 34% still considered that it was not effective.

Economic concerns were cited as by far the most pressing problems facing the country. A huge 81% of Georgians cited unemployment as the most pressing problem. Low living standards/poverty was cited by 37%, economic crisis by 36%, low salaries/pensions by 35%, and high prices and taxes by 32%.

At 11.5%, Georgia had the second highest unemployment rate in the EaP region in 2017 – second only to Armenia – and in the 2018 survey, economic concerns remained the most prevalent – with again 81% citing unemployment, 44% citing economic crisis, 33% low salaries/pensions, 32% living standards/poverty, and 28% high prices and taxes.<sup>78</sup>

<sup>76</sup> Visa Liberalisation: Commission Reports on Fulfilment of Visa-Free Requirements by Western Balkans and Eastern Partnership Countries, European Commission, 10 December 2018, [http://europa.eu/rapid/press-release\\_IP-18-6819\\_en.htm](http://europa.eu/rapid/press-release_IP-18-6819_en.htm)

<sup>77</sup> Annual Survey Report: Regional Overview, 2nd Wave (Spring 2017), OPEN Neighbourhood – Communicating for a Stronger Partnership: Connecting with Citizens Across the Eastern Neighbourhood, EU Neighbours East/ECORYS, June 2017, [https://www.euneighbours.eu/sites/default/files/publications/2017-10/EUNEIGHBOURSeast\\_AnnualSurvey2017report\\_EaP\\_OVERVIEW\\_0.pdf](https://www.euneighbours.eu/sites/default/files/publications/2017-10/EUNEIGHBOURSeast_AnnualSurvey2017report_EaP_OVERVIEW_0.pdf)

<sup>78</sup> Annual Survey Report: Georgia. 3rd Wave (Spring 2018). OPEN Neighbourhood – Communicating for a Stronger Partnership: Connecting with Citizens Across the Eastern Neighbourhood, EU Neighbours East/ECORYS, June 2018, [https://www.euneighbours.eu/sites/default/files/publications/2018-07/EU%20NEIGHBOURS%20east\\_AnnualSurvey2018report\\_GEORGIA.pdf](https://www.euneighbours.eu/sites/default/files/publications/2018-07/EU%20NEIGHBOURS%20east_AnnualSurvey2018report_GEORGIA.pdf)

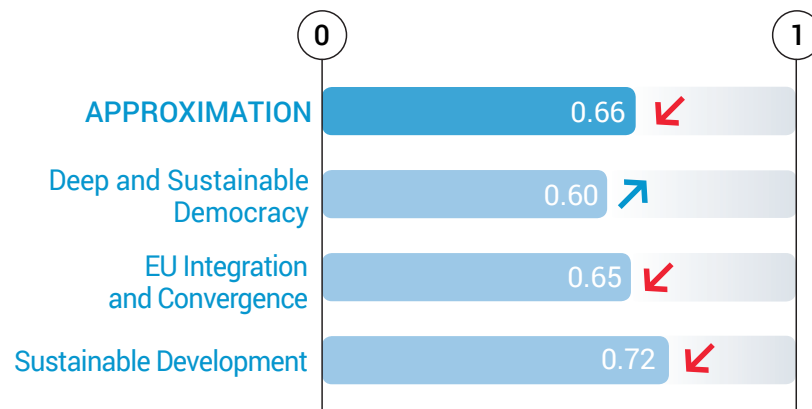




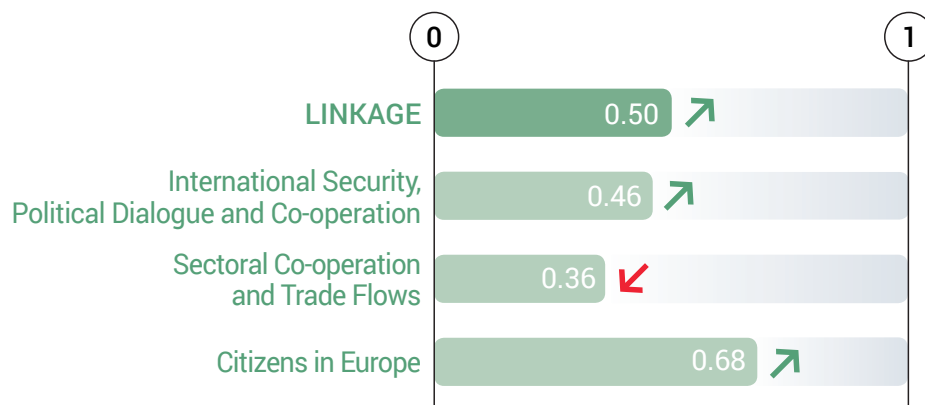
# ARMENIA



## APPROXIMATION



## LINKAGE





# ARMENIA

## TOP CHALLENGES FOR 2019

- The new “reformers” government established following the early parliamentary elections of 9 December 2018 will be able, in conjunction with a new parliament reflecting the “post-Velvet-Revolution” political realities, to prioritise the consistent and timely implementation of the Comprehensive and Enhanced Partnership Agreement (CEPA) between the EU and Armenia. The arrival of stability and clarity in the internal political set-up also provides the government with the opportunity to establish a fruitful and participatory consultative process with civil society to maximise the inclusivity of decision-making in implementation of the ambitious CEPA agenda.
- The democratic renaissance in Armenia, and the long-awaited consensus between the country’s leadership and the overwhelming majority of the population, provide an opportunity for the EU to re-evaluate its expectations vis-à-vis Armenia. Both the EU and the Armenian government should take advantage of this window of opportunity when the alignment of bilateral co-operation and domestic priorities can drive forward the implementation of a more ambitious and comprehensive reform agenda that goes beyond the commitments made at the time of the agreement on CEPA.
- Armenian civil society should focus on increasing its own expert capacity, contributing consultative inputs to the development of the road map on CEPA implementation, and providing regular and quality sectoral support to the government in the areas covered by the agreement.

## CONSOLIDATION OF DEMOCRACY BECOMES TOP PRIORITY

In May 2018, the citizens of Armenia awoke in a new country. The old order collapsed after a protest movement rose up to reject the takeover of the Prime Minister’s office by Serzh Sargsyan (the President of Armenia in 2008-2018, whose maximum of two terms as head of state had expired). Overnight, a politician from a minor party had defied all expectations and been chosen as Prime Minister by a parliament still dominated by the former ruling party – based on the overwhelming support of the population who took to the streets to demand change.

Although these momentous developments were separated by just a short time span from the events of 2017, the focus year for the data of this edition of the Eastern Partnership Index, the scale of the change means that the data collected and analysed will serve as an important baseline against which future editions of the index can illustrate how differently the same factors can be assessed in a changed political, legal and social environment.

One of the most impressive transformations in the mindset of the Armenian public has been the shift in attitudes towards the open-ended concentration of power in the hands of the nation’s leader as a consequence of the shift from a presidential (or semi-presidential, as



it was formally defined) to a parliamentary republic following the constitutional changes that took full effect in March 2018.<sup>1</sup> If before Armenia's "Velvet Revolution", this concentration was viewed as the crux of almost all challenges facing the country, now in the case of the protest leader-turned-Prime Minister Nikol Pashinyan, his "omnipotence" was widely perceived as the guarantee that the gains of the people's victory would be secured and as the main promise for reform.

Nevertheless, it is widely understood that Armenia has a limited window of opportunity for transforming into a functioning democracy where the revolutionary will and commitment of the leader and his team give way to a situation where first the mandate to govern is confirmed by parliamentary elections (on 9 December 2018), and subsequently a sustainable democratic and accountable political culture is established to ensure that the reforms are continued. In this sense, the findings of the 2017 edition of the Index in the case of Armenia, far removed from the current mood of enthusiasm in the country, should prove valuable for a dispassionate formulation of the agenda for further reform.

The change in Armenia's political context also necessitates a relative correction of the lens through which we assess specific areas addressed by the goals and benchmarks of the Eastern Partnership initiative. There has been a significant shift in reform priorities and, in comparison with the previous "regime", the regulatory framework is observed differently in the current political realities.

This is particularly true for the judicial system, the actions of the fiscal authorities, and the media, where in the recent past the deficit of anti-corruption mechanisms, combined with sophisticated political pressure, led to the distorted application of the law. In the changed circumstances, the focus for reforms was less on legislation,<sup>2</sup> despite previous concerns that

1 Constitutional changes were approved by a referendum on 6 December 2015 and took effect gradually from 2016-2018. As a result of the changes, on 2 March 2018 the new President was elected by the parliament instead of, as previously, by a popular vote. This election marked the constitutional change to a parliamentary system of government, reducing the President to a largely ceremonial role.

2 For instance, the Law on the Structure and Activity of the Government.

*Armenian Government to Hold Closed Sessions, Giving up on Transparency*, JAMnews, 2 February 2018, <https://jam-news.net/?p=83858>

the laws harboured numerous "loopholes" for abuse, and more on the urgent resolution of practical issues, namely:

- the formation of a new administration following the snap parliamentary elections, which marked the culmination of the regime change;
- continuous efforts to combat corruption and abuse of power – the legacy of the old regime;
- the release of political prisoners in response to the public demand for justice for all those who fought against state capture by the oligarchic elite.<sup>3</sup>

Besides their immediate significance for the cleansing of the country of the legacy of the past, the latter two processes also serve to test the quality and independence of investigative agencies and the judiciary. Court cases brought against illicit enrichment related to the families of the brothers of ex-President Serzh Sargsyan and the launch of court proceedings against former President Robert Kocharyan signalled a start in the application of transitional justice.<sup>4</sup> They will not necessarily reflect progress in approximation with EU standards, but will display the spirit and the potential of the actual reforms.

In the **Approximation** dimension of the Index 2017, the long-term engagement with the EU in bringing laws and standards in line with international standards is evident as, despite some slippage, Armenia ranks second behind Ukraine, but slightly higher than two Association Agreement signatories, Moldova and Georgia.

In the **Linkage** section of the Index 2017, on the other hand, Armenia continues to be placed

3 Just one day after an amnesty bill came into effect on 6 November 2018, which would see thousands of prisoners freed, Shant Harutyunyan, the head of the Tseghakron party, was released. Harutyunyan was sentenced to six years in prison after leading anti-government protests in 2013. *Armenia: Hundreds of Prisoners Freed on Amnesty*, JAMnews, 8 November 2018, <https://jam-news.net/armenia-hundreds-of-prisoners-freed-on-amnesty/>

4 Kocharyan was charged with "overthrowing" the constitutional order during the events of 1-2 March 2008 at the end of his 10-year tenure as President. Following the victory in the February 2008 presidential election of Serzh Sargsyan, the candidate backed by Kocharyan, protesters took to the streets to rally against alleged vote-rigging. On 1-2 March, eight protesters and two police officers were killed when police and military forces dispersed demonstrators, and outgoing President Kocharyan declared a 20-day state of emergency.

only a little better than Azerbaijan and Belarus. The orientation of trade flows towards Russia since joining the Eurasian Economic Union, combined with the lower level of political and security dialogue with the EU, leave Armenia lagging a long way behind the three AA countries.

## A TIME OF HIGH POLITICAL SIGNIFICANCE

Even before the tumultuous events of 2018, the year 2017 was marked by significant political events for Armenia. In terms of external politics, CEPA was initialled on 21 March 2017, then signed on 24 November. On the domestic scene, parliamentary elections took place on 2 April. These two developments were interconnected since, as announced several times by EU officials, the quality of the elections would influence the progress in bilateral co-operation, and the EU allocated substantial financial support for the administration of the electoral process.

As indicated in the EaP Index 2017 data, the formal side of the elections was mostly in compliance with the approximation benchmarks: during the official campaign, the parties were provided equitable access to state-owned (public) media, as well as in most cases to the private broadcast channels. A mechanism was introduced to identify bias in coverage and make swift corrections. At the level of legislation, regulations were in place to prohibit abuse of “administrative resources” and monitor party finances.

According to the OSCE/ODIHR Election Observation Mission, “the legal framework for elections is comprehensive but complex”. The Central Election Commission (CEC) “met all legal deadlines and conducted its work in a transparent manner while operating collegially and efficiently. [...] The accuracy of the voter lists was improved as a result of enhanced inter-institutional collaboration. [...] Voters were identified on election day through the use of electronic Voter Authentication Devices, which functioned effectively.”<sup>5</sup>

<sup>5</sup> Armenia, *Parliamentary Elections, 2 April 2017: Final Report*, OSCE/ODIHR, July 2017, <https://www.osce.org/odihr/328226>

This generally positive assessment was diminished by certain criticisms in the report: “The campaign was tainted by credible and widespread allegations of vote-buying, pressure on public servants including in schools and hospitals, and of intimidation of voters to vote for certain parties. This contributed to an overall lack of public confidence in the electoral process and raised concerns about voters’ ability to cast their votes free of fear of retribution... Some legal provisions for campaign finance reporting and oversight were strengthened; however, so-called organisational expenditures, such as for campaign offices, transport, and communication are excluded from reporting, diminishing transparency.”

There were certain reservations about media coverage of elections despite the fact that this component was considered as the most advanced in the context of regulation and administration of the electoral process. Particularly, according to one of the findings of the monitoring implemented by Yerevan Press Club with the support of the Council of Europe,<sup>6</sup> “the deficit of mechanisms of regulation of political competition outside of the official pre-election promotion was [...] reflected in the frequency of violations of ethical norms”. Another important issue connected to the shortfalls in regulation, evident in the course of the electoral campaign, was “the lack of equal conditions for those candidates who were running for parliamentary seats on the basis of territorial lists”.<sup>7</sup> Though nominally Armenia had introduced a 100% proportional electoral system, “when some [of the ‘territorial candidates’] received access to TV (both on the national and regional levels) and their competitors did not receive it, this was an obvious ground for criticism”.

Challenges to fair political competition were displayed not only in the context of elections, but also in other situations, including protest actions. Although the government did not officially recognise the existence of political prisoners in the country, local NGOs regularly

<sup>6</sup> *Final report. Monitoring of Armenian Broadcast Media Coverage of Elections to RA National Assembly on 2 April 2017*, Yerevan Press Club, April 2017, [http://ypc.am/wp-content/uploads/2017/03/YPC-Elections-Monitoring\\_Final-Report\\_eng.pdf](http://ypc.am/wp-content/uploads/2017/03/YPC-Elections-Monitoring_Final-Report_eng.pdf)

<sup>7</sup> Half of the mandates in parliamentary elections are assigned through closed party lists, where voters cannot influence the order of candidates, and the other half are elected through open lists (where voters can choose between the order of a party’s candidates) submitted in each of 13 territorial districts.

reported about the politically motivated prosecution of politicians and activists in line with the standards laid down by the Parliamentary Assembly of the Council of Europe (PACE).<sup>8</sup> In particular, the case of Andreas Ghukasyan attracted the attention of local and international human rights organisations during 2017. The problem was several times raised by the Eastern Partnership Civil Society Forum and its Armenian National Platform.<sup>9</sup>

The situation changed after the “Velvet Revolution” – the slogan “Armenia without Political Prisoners” was launched – and, according to human rights defenders, dozens of political prisoners were quickly released. The exception was Shant Harutyunyan, who refused to initiate any steps towards his own release and insisted that the justice system itself had to rectify the mistake. Harutyunyan, the head of the Tseghakron party, who had been serving a six-year prison sentence after leading anti-government protests in 2013, was released only on 6 November 2018.

## THE NEW LEADERSHIP NEEDS TO MAINSTREAM OPEN AND INCLUSIVE DECISION-MAKING

The legacy of the old order includes conditions in prisons and other penitentiary institutions that are not compliant with the standards of the European Court of Human Rights and the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT).

The last CPT report on Armenia was issued in 2016, but updated reports have been published by human rights activists and the Group of Public Monitors implementing supervision over the criminal-executive institutions and bodies of the Ministry of Justice. The Group of Public Monitors proved to be an independent, professional entity, becoming especially effective in the new political situation.<sup>10</sup>

The political system in Armenia is undergoing a process of transformation. Under the

<sup>8</sup> *Human Rights in Armenia 2017 Report*, Helsinki Committee of Armenia, January 2018, [http://armhels.com/wp-content/uploads/2018/02/Ditord-2018Eng\\_Web.pdf](http://armhels.com/wp-content/uploads/2018/02/Ditord-2018Eng_Web.pdf)  
<sup>9</sup> *EaP CSF Armenian National Platform Statement on Political Prisoners*, October 2017, <https://eaparmenianews.wordpress.com/2017/09/21/issue-276/>  
<sup>10</sup> <http://www.pmg.am>

constitutional reforms approved in 2015, the move from a semi-presidential republic to a system where the parliament has increased powers left open the danger that the process of adoption of legislation could have been usurped by an increase in the power of the prime minister combined with limited accountability of the prime minister before the legislature. The system would have been accommodated to the “comfortable” rule of Serzh Sargsyan in his new capacity as Prime Minister.

After the revolution in May 2018, the new leadership rejected the practice of non-transparency and non-accountability, in contrast demonstrating unprecedented openness before the public. Prime Minister Nikol Pashinyan frequently responds in real time to the questions of Facebook users. Other members of his cabinet followed his example, were very active in social networks, and regularly gave interviews to the professional media.

In the *Approximation* measure of the Index 2017, relative improvements were evident in areas such as transparent budgeting and combatting trafficking in human beings. The trend of joining global initiatives continued, adopting strategies on climate change, environmental policy, and sustainable development policy, but very limited measures were undertaken in practice in these areas.

A significant challenge has emerged in the mining industry. The lack of transparency and accountability regarding the scale of damage to the environment, compounded by the prevalence of corruption schemes, resulted in a huge protest movement. On the one hand, Pashinyan and his team face pressure from environmental activists who were active participants in the “Velvet Revolution”, and they will have to tackle irregularities in the work of mining companies and to ensure the compliance of their operations with environmental protection standards. On the other hand, the mining industry has been one of the most attractive for foreign investment. The new government needs to balance these potentially competing priorities carefully, working to protect the environment without discouraging investment.

Although the local government reform currently being implemented in Armenia complies in principle with international standards, the insufficiently transparent



process, as well as the lack of consideration of the opinions and interests of local communities, has drawn criticism from politicians, civil society and the expert community, as well as from the general public.

No formal progress can be claimed vis-à-vis democratic control over security and law enforcement institutions. There are some mechanisms in place, but the way they were deployed in 2017 was not effective. As in many spheres before the Velvet Revolution, the regulatory framework was slowly improving, but practical implementation remained problematic. Positive changes were evident in the course of protests in April 2018, when there was scarce use of excessive force by police against the protesters and media covering the actions of civil disobedience. The restraint was partially a result of the monitoring by human rights defenders and media of law enforcement conduct towards the peaceful protests.

## SPIRIT OF REVOLUTION VERSUS ROUTINE REFORMS

Civil society groups' criticisms of the government regarding anti-discrimination and equal opportunities policies continued to be valid after the "Velvet Revolution". In particular, women's representation in the cabinet remained unchanged (two women out of 18 ministerial positions). Prior to the parliamentary elections of 9 December 2018, the number of women MPs fluctuated as MPs resigned their mandates during the change of regime, but it never exceeded 20% out of a total of 105 seats.

Armenia has still not become a party to a range of international agreements on minority rights, including the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the European Charter for Regional or Minority Languages, the European Convention on the Legal Status of Migrant Workers, and the European Convention on Nationality.

Despite signing a Visa Facilitation and Readmission Agreement with the EU, ambitions to start dialogue on visa liberalisation did not progress in 2017, and Yerevan had still not fulfilled several obligations on readmission.<sup>11</sup>

11 *Monitoring Report: Agreement between the European Union and the Republic of Armenia on the Facilitation of the Issuance of Visas (4th Monitoring)*, Stepan Grigoryan and Nikolay Israyelyan, European Neighbourhood Council, July 2018, [http://eapmigrationpanel.org/sites/default/files/analysis-of-the-facilitation-of-the-issuance-of-visas-as-part-of-eu-armenia-relations\\_1.pdf](http://eapmigrationpanel.org/sites/default/files/analysis-of-the-facilitation-of-the-issuance-of-visas-as-part-of-eu-armenia-relations_1.pdf)

## Reforms Move Ahead Without Regulatory Changes: Time for EU Re-Think?

Several statements by the incoming Prime Minister Nikol Pashinyan<sup>12</sup> following his visit to Brussels on 11-12 July 2018, as well as the words of his team members, signalled that the new Armenian government would turn out to be a different partner for EU than the preceding governments. Under the regime of Serzh Sargsyan, Brussels-Yerevan relations were akin to trade deals where the Armenian side was eager to sell cheaper goods (fewer real reforms) for a higher price (increased financial support from the EU).

Pashinyan confirmed that he would insist on a new approach. He stated that the revolution in Armenia had no external political pretext; it happened exclusively as an internal demand from the side of the Armenian people for democracy, dignity and justice, and values-driven politics. He contended that reforms would be implemented much faster than in the past under EU-funded projects. For instance, Pashinyan argued that there had been no tangible results from the millions of euros spent over several years on judiciary reforms. In contrast, just one week after the revolution, a high level of independence of the courts had been achieved without spending a cent.

If the EU wants to support his country, continued Pashinyan at an improvised press conference before departing from Brussels, instead of inspiring speeches, the EU should provide an increase in the amount of support promised to the previous government and rely on the will of the country to do everything possible to achieve progress. Otherwise, Armenians know what they have to do and will find the necessary resources themselves. For instance, within a short time, the new administration secured the return to the budget of US\$42 million as a result of anti-corruption investigations.

In his statements, Pashinyan was prone to exaggeration, but his claims were not groundless. In particular, the gap between the core essence of legal provisions and their practical application has begun to narrow since Pashinyan took office as prime minister. Trust towards the judiciary system has increased, not least concerning the most scandalous corruption cases. Even though the existing regulations on the appointment, promotion and dismissal of judges, on the institutional independence of the courts, and on the accountability and transparency of the justice system were repeatedly criticised by the independent expert community, the rehabilitation of the justice system is taking place in the eyes of society.

This is evident also in some other spheres, where – without any reforms at the regulatory level – the practice has moved closer to the standards set out by the EU and the Council of Europe. However, this immediate side-effect of the revolutionary euphoria cannot fully replace a consistent, sustained approximation process. At the same time, the occurrence of this phenomenon necessitates a re-thinking of not only the respective needs of the new Armenian government, but also a reassessment of the effectiveness criteria used by the European Commission. The lessons of the Armenian example, if heeded, could contribute to the overall success of the EaP as an ambitious project in 2019 and beyond.

12 Prime Minister Nikol Pashinyan responds to the questions of journalists on his visit to Brussels (video in Armenian), Office of the Prime Minister, 12 July 2018, <http://www.primeminister.am/hy/videos/item/9MrD1Vs-F0A/>

Armenian civil society had never in the history of the country felt so secure and appreciated as it did after the "Velvet Revolution".

Furthermore, an examination of the instances of intimidation or persecution of civil society activists by the law enforcement bodies and informal power structures in the 2015-2017

period<sup>13</sup> points to the continuing need to properly address the need to embed in both law and practice the respect for, and protection of, freedom of association and freedom of action and assembly – for representatives of civil society and for the population as a whole.

In the media sector, for instance, since April 2018 Armenian journalists have enjoyed an unprecedented degree of freedom in their work, but the major problems that have faced the media environment over the past few years have not been tackled. Most cases of intimidation of media professionals in recent years have not been investigated.

No legislative proposals have been put forward to ensure that public television enjoys a combination of effective governance and editorial independence. Ineffective regulatory mechanisms have allowed the emergence of a de facto state monopoly on multiplex operators' services for terrestrial digital broadcasters that excludes fair competition between regional television companies.<sup>14</sup> This situation was intentionally preserved by the RPA-led government, and its resolution does not feature yet among the priorities of Pashinyan's government.

Since Armenia did not sign an Association Agreement with the EU, and CEPA does not include many important elements of economic co-operation envisaged by the Deep and Comprehensive Free Trade Area (DCFTA) agreements the EU signed with Georgia, Moldova and Ukraine, several points of the approximation agenda do not apply in the case of Yerevan.

However, as the findings of the Index 2017 show, Armenia did not fall far behind Georgia, Moldova and Ukraine in trade co-operation. One of the explanations could be the consistent interest of the Armenian government in preserving the GSP (Generalised Scheme of Preferences)+ trade regime with the EU and the effectiveness of regular monitoring of the implementation of the country's respective commitments.<sup>15</sup>

13 *Challenges and Opportunities of Civil Society Environment*, Haykuhi Harutyunyan, Protection of Rights without Borders, April 2018, <http://prwb.am/new/wp-content/uploads/2018/03/Armenia.pdf>

14 *Annual report 2017 on the Status of Freedom of Speech in Armenia and the Violation of the Mass Media Rights*, Committee to Protect Freedom of Expression, February 2018, <http://khosq.am/en/reports/annual-report-of-cpfe-on-the-situation-with-freedom-of-expression-and-violations-of-rights-of-journalists-and-media-in-armenia-2/>

15 *Report on the Generalised Scheme of Preferences During*

Civil society was actively engaged in the GSP+ monitoring process, which was less true in other spheres contributing to the deepening of EU-Armenian co-operation. On the one hand, government institutions readily agreed on superficial, formalistic models of CSO involvement in consultations on reforms. Legislation was initiated to require ministries to form Public Councils. These councils, comprising civil society experts, provided a forum attached to the respective ministries, through which the voice of civil society could be aired on a regular basis.

On the other hand, Public Councils worked in practice only in those cases when the given ministry's leadership was interested in working with CSOs (or could not avoid doing so). For instance, in many cases the Ministry of Justice actively consulted with civil society representatives irrespective of their membership in the Public Council. A contributing factor in the case of specific programmes was the imposition of conditionality by international donors.

Where there was no interest from the side of the ministry, the Public Councils were sidelined. In October 2016, the Ministry of Defence introduced the Nation-Army concept. The very idea of the initiative presupposed wide and open public debate, but the Ministry paid attention only to the opinions of loyal voices and completely neglected numerous critical ones. Taking into account the status of the initiative at the level of the government, such a selective "consultation process" only deepened the controversy, further shrinking the space for co-operation between the government and independent civil society in 2017.

## JUGGLING TIES WITH RUSSIA WITH CLOSER LINKS TO EU AND NATO

In 2017, Armenia consistently participated in all formats of the EaP and in EU-Armenia bilateral co-operation (Co-operation Council, Euronest, Parliamentary Co-operation Committee, CORLEAP, the EaP Business Forum, Civil Society and Media conferences). Mutual visits of high officials were also organised.

*the Period 2016-2017*, Joint staff working document of European Commission and EEAS, May 2018, [http://trade.ec.europa.eu/doclib/docs/2018/january/tradoc\\_156537.pdf](http://trade.ec.europa.eu/doclib/docs/2018/january/tradoc_156537.pdf).

## Can Civil Society Work in Concert to Open Up Policymaking?

The new “revolutionary” government is by definition interested in using the potential of Armenian civil society. Regime change came about with the support of civic activists, and many members of the executive and legislative branches of power entered the cabinet and the parliament directly from civil society organisations. At the same time, the incoming government faced an avalanche of problems linked to the priorities of the moment, and the new leadership had scarcely any time to listen to representatives of civil society – except those whose profiles were directly relevant to considerations about the immediate effect of electoral reforms, fighting corruption and abuse of power.

In short, the ministries and the standing committees of the parliament lack sufficient experience and resources to address all the demanding issues they face, and the situation is compounded by the fact that there are no mechanisms in place to ensure efficient consultative processes take place with those outside the government who might be able to help.

Civil society representatives could support the search for effective policy solutions through identifying potential challenges and unanticipated impacts, ensuring that different stakeholder perspectives are taken into account, and providing expert policy recommendations. In this situation, civil society itself needs to take up the challenge to propose a model that

could, on the one hand, ensure inclusive engagement of a wide range of CSOs and think-tanks, while on the other hand envisage mechanisms through which consolidated positions could be reached when quick and responsible decisions are needed.

Unfortunately, in most cases, CSOs try to build relations with the government in small groups, seeing others not as potential partners, but competitors. This is a real challenge for Armenian civil society in its current make-up. In the context of the Eastern Partnership, several formats of civil society engagement in the reform process were introduced, such as the EaP Civil Society Forum with its National Platforms, and bilateral civil society platforms for the Association Agreements countries. A similar platform needs to be formed within the framework of the CEPA between Armenia and the EU. Several projects are supported in parallel by the EU, which are designed for almost the same missions as the aforementioned platforms.

The absence of synergy among these diverse efforts atomises the potential of civil society, especially in situations such as the one in Armenia. Ultimately, it is only the CSOs themselves who can change this state of affairs, and an initiative to do so in 2019 would mark an important development whereby civil society actors were recognising that they too shoulder a responsibility for the progress of the country.

At the same time, internal political developments caused delays in certain processes related to the implementation of CEPA. The inter-agency government commission on CEPA was initially formed in December 2017, but it did not begin operations because all governmental structures were concentrated on the process of moving then President Serzh Sargsyan to the office of Prime Minister.

After the change of power in May 2018, a new inter-agency commission was formed by the decree of the new Prime Minister, Nikol Pashinyan, on 2 July 2018. The delay led to the postponing of certain working processes with EU partners, including the development of the roadmap for CEPA implementation.

Six Armenian political parties engaged in four pan-European parties and alliances – EPP (European People’s Party), PES (Party of European Socialists), ALDE (Alliance of Liberals and Democrats for Europe), and ACRE (Alliance of Conservatives and Reformists in Europe). Two Armenian parties participate actively in their work (the Republican Party of Armenia in EPP and the Armenian National Congress party in ALDE). Some other political parties are in the process of seeking affiliation with the European party groupings.

Armenian civil society strongly contributes to, and actively participates in, the promotion of deeper EU-Armenia co-operation. It endeavours to shape a consistent agenda for the Eastern Partnership in bilateral and multilateral domains, to monitor implementation of the country’s commitment, and to raise public awareness about the EaP and Armenia’s participation in the initiative.

The National Platform of the EaP Civil Society Forum is one of the most active in the CSF, and its membership grew to 250 organisations in 2017. More than 30 meetings at different levels and with various thematic focuses took place within the National Platform during the past two years.

Given the membership of Armenia in the Collective Security Treaty Organization (CSTO) led by Russia, there are limitations on participation in the EU’s Common Security and Defence Policy (CSDP) missions and operations. Yerevan does not have an Administrative Agreement with the European Defence Agency, although in 2017 official consultations were held with the EU Military Committee (EUMC) and the Political and Security Committee (PSC) and co-operation was established with the EU Agency for Network and Information Security (ENISA).



Armenia has tried to diversify its participation in international security initiatives. While being a member of CSTO, it is engaged in NATO peacekeeping missions in Afghanistan and Kosovo. The new leadership of the country reaffirmed its position both on deepening the security alliance with Russia and at the same time developing co-operation with NATO. Pashinyan took part in the NATO summit in July 2018, but also joined Russia in its actions in Syria, though limiting Armenia's participation to humanitarian operations.

Such efforts to build external relations so that neither set of ties comes at the expense of the other are not always welcomed by the partners, and from time to time create visible or invisible tensions. For this reason, the snap parliamentary elections of December 2018 were important to prevent attempts by the former authorities, which in the guise of the RPA continued to hold a majority in the parliament, to use external factors to weaken the positions of the new government in domestic politics.

The mission of the Organization for Security and Co-operation in Europe (OSCE) in Armenia was closed in 2017 at the initiative of another OSCE participating state.<sup>16</sup> This unfortunate development limited the possibility of implementation of programmes on security, development, democracy promotion, and the defence of human rights, including the projects supporting free and fair elections in 2017. Both before and after the change of power in May 2018, Yerevan officially confirmed its commitment to the process of peaceful resolution of the Karabakh conflict in the framework of the OSCE Minsk Group co-chairs.

## SECURITY – ECONOMIC AND OTHERWISE – TOPS CITIZENS' CONCERNS

Armenia continued progressing in participation IN Horizon 2020, Erasmus+ and EU mobility initiatives, made the necessary efforts to join the Creative Europe programme (the corresponding agreement was signed on 20 March 2018, when Armenia became the fourth EaP country – joining Georgia, Moldova and Ukraine – to register this achievement.<sup>17</sup>

<sup>16</sup> *Eastern Partnership Civil Society Forum: Closure of OSCE Office is Extremely Dangerous Precedent*, news.am, May 2017, <https://news.am/eng/news/389090.html>

<sup>17</sup> *Armenia Joins Creative Europe Programme*, EU Neighbours East, 21 March 2018, <https://www.euneighbours.eu/en/east/stay-informed/news/armenia-joins-creative-europe-programme>.

According to the EU Attitudes Survey conducted in 2017 by EU Neighbours East/ECORYS, 67% of those Armenian citizens aware of EU financial support to their country thought the [EU financial] support had been effective (among the EaP countries, only Georgia had a higher percentage of respondents of this opinion). In the view of 28%, it had not been effective.<sup>18</sup> In the 2018 survey, 66% considered the support either effective (55%) or very effective (11%), while 26% considered that it was not very effective (11%) or not effective at all (15%).<sup>19</sup>

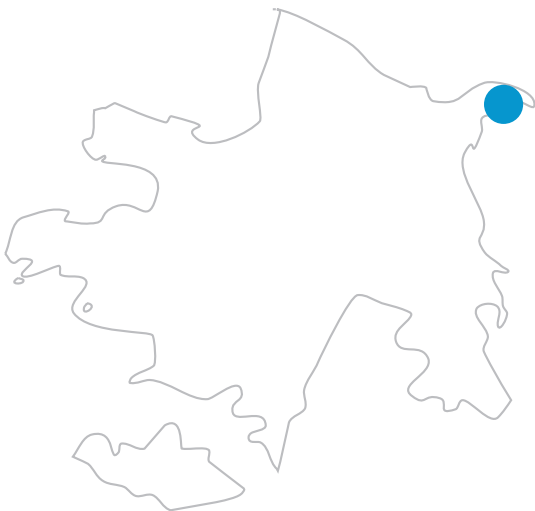
Surveyed about the most pressing problems facing their country, Armenians cited unemployment (identified by 58%) as the most pressing concern, followed by migration (36%), low salaries/pensions (30%), economic crisis (23%), security issues/war (22%), and low living standards/poverty (20%). In the 2018 survey, concerns about unemployment remained the leading concern (but lower at 50%), followed by low living standards/poverty (higher at 27%), and migration and low salaries/pensions (both cited by 24%).

[euneighbours.eu/en/east/stay-informed/news/armenia-joins-creative-europe-programme](https://www.euneighbours.eu/en/east/stay-informed/news/armenia-joins-creative-europe-programme).

<sup>18</sup> *Annual Survey Report: Regional Overview, 2nd Wave (Spring 2017)*, OPEN Neighbourhood – Communicating for a Stronger Partnership: Connecting with Citizens Across the Eastern Neighbourhood, EU Neighbours East/ECORYS, June 2017, [https://www.euneighbours.eu/sites/default/files/publications/2017-10/EUNEIGHBOURSeast\\_AnnualSurvey2017report\\_EaP\\_OVERVIEW\\_0.pdf](https://www.euneighbours.eu/sites/default/files/publications/2017-10/EUNEIGHBOURSeast_AnnualSurvey2017report_EaP_OVERVIEW_0.pdf)

<sup>19</sup> *Annual Survey Report: Armenia. 3rd Wave (Spring 2018)*, OPEN Neighbourhood – Communicating for a Stronger Partnership: Connecting with Citizens Across the Eastern Neighbourhood, EU Neighbours East/ECORYS, June 2018, <https://www.euneighbours.eu/en/east/stay-informed/publications/opinion-survey-2018-armenia>

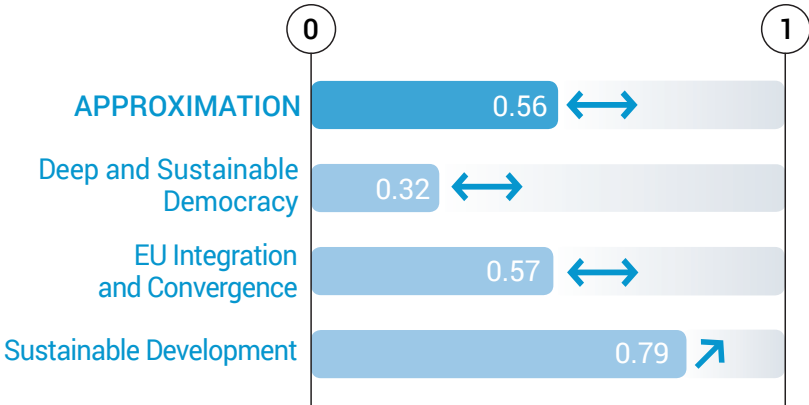




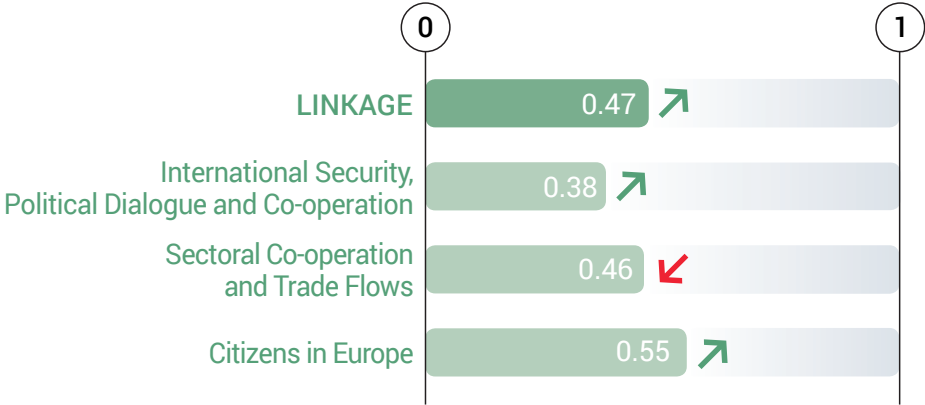
# AZERBAIJAN



## APPROXIMATION



## LINKAGE



# AZERBAIJAN

## TOP CHALLENGES FOR 2019

- To provide an enabling environment for civil society organisations (CSOs), the Azerbaijani authorities should lift all legal and regulatory barriers to the registration of CSOs, including the simplification of procedures to amend registration documents, and an end to the requirement for registration of every single grant agreement and service contract. They should also end the obligation for foreign donors to obtain the government's assent to provide grants.
- The European Commission and European Council should follow the lead of the European Parliament and insist on the release of all political prisoners as a pre-condition for signing the planned comprehensive agreement between Azerbaijan and the EU. Both the negotiations between Azerbaijan and the EU and talks with the World Trade Organization (WTO) towards Azerbaijan's WTO membership should include civil society participation in the process.
- Key reforms should be introduced to build trust in government and the justice system. Top priorities should include the independence of the judiciary and courts system, and mandatory annual declaration of the income and assets of public officials. A new impetus is also needed towards environmental protection, the protection of farmers' land rights, and the development of alternative energy resources.
- Anti-corruption measures and economic diversification should be given high priority. The enhancement of transparency and accountability in the public finance management system is essential, backed up by decentralisation of the economy, demonopolisation of business through a competitive and favourable environment for small and medium-sized enterprises (SMEs), and a concerted policy towards the diversification of exports.

## CLAMPDOWN ON CIVIL LIBERTIES STALLS PROGRESS ON INTERNATIONAL ENGAGEMENT

In 2018, Azerbaijan celebrated the 100th anniversary of the establishment of the first democratic Azerbaijan People's Republic. A century later, the democratic challenges are immense. There is a deteriorating enabling environment for civil society and mass media, restricted civic and political space, and neglect and outright abuse of the human, social and economic rights of citizens.

The internal challenges include the growing scope of corruption and the informal economy, the failure to diversify the economy, inefficient healthcare and education systems, the fragility of the financial system, the politicised justice system, and the subjugation of parliamentary power to the executive presidency.

According to Human Rights Watch, "the space for independent activism, critical journalism, and opposition political activity has been virtually extinguished by the arrests and convictions of many activists, human rights defenders, and journalists, as well as by laws and regulations restricting the activities

of independent groups and their ability to secure funding”.<sup>1</sup> Independent civil society in Azerbaijan is struggling to survive.

The external challenges are not small-scale, either. Azerbaijan has faltered in its attempts at co-operation with international transparency and accountability initiatives, not least due to the high level of corruption embedded in the ruling elite in Baku, compounded by the authorities’ continued clampdown on the rights of independent civil society. Continuing external challenges include the negotiations on a comprehensive agreement on co-operation with the EU, accession talks with the WTO, and the unresolved conflict in Nagorno-Karabakh.

On 9 March 2017, after several warnings, the Extractive Industries Transparency Initiative (EITI), an international coalition promoting better governance in resource-rich countries, suspended Azerbaijan for failing to ease restrictions on civil society groups. The government responded by withdrawing. “While international financial institutions, like the World Bank, pledged support for EITI, they continued to fund extractives projects despite the government’s failure to implement reforms required by EITI,” noted Human Rights Watch.<sup>2</sup>

On 8 August 2017, Transparency International Azerbaijan announced that it had to close its two regional Advocacy and Legal Advice Centres (ALACs) and that it had scaled back its operations in the capital city of Baku “because the government would not approve an extension of the funding as it comes from outside the country. Since 2012, the government has introduced restrictive laws that do not allow civil society organisations to accept money from international donors.”<sup>3</sup>

On 28 June 2017, the OGP Steering Committee resolved to extend Azerbaijan’s inactive status for a period of one year, due to “unresolved constraints on the operating environment

1 *Harassed, Imprisoned, Exiled. Azerbaijan’s Continuing Crackdown on Government Critics, Lawyers, and Civil Society*, Human Rights Watch, 20 October 2016, <https://www.hrw.org/report/2016/10/20/harassed-imprisoned-exiled/azerbaijans-continuing-crackdown-government-critics>  
 2 *Human Rights Watch World Report 2018. Azerbaijan – Events of 2017*, Human Rights Watch, <https://www.hrw.org/world-report/2018/country-chapters/azerbaijan>  
 3 *Azerbaijan: Closing Down Civil Society*, Transparency International Azerbaijan, 10 August 2017, [https://www.transparency.org/news/feature/azerbaijan\\_closing\\_down\\_civil\\_society](https://www.transparency.org/news/feature/azerbaijan_closing_down_civil_society)

for NGOs”.<sup>4</sup> The Steering Committee further mandated its Criteria and Standards (C&S) subcommittee, in consultation with civil society and government, to develop an updated set of recommendations to improve the unresolved issues by 15 September 2017.

A survey conducted among more than 50 representatives of independent and semi-independent CSOs showed that Azerbaijan had still not implemented the C&S subcommittee recommendations even a year later.<sup>5</sup>

The OGP Steering Committee decided on 5–6 December 2018 to further extend Azerbaijan’s inactive status for a full action plan cycle pending the timely completion of specific milestones. The decision was taken after concluding that over the past year the government had not made systematic changes or reforms, but that “there was value in the continued engagement and space for dialogue that the OGP forum in Azerbaijan creates”. Failure to achieve the said milestones would automatically result in the permanent suspension of Azerbaijan from OGP.<sup>6</sup>

Corruption loomed large as an issue clouding Azerbaijan’s international standing. Limited transparency, inconsistent enforcement of rules to foster competition, and allegations of corruption in regulatory matters remained significant problems. Tender procedures were opaque, and a small number of businesses dominated key sectors of the economy. Azerbaijan scored 31 out of 100 in the Transparency International Corruption Perceptions Index 2017, indicating a chronic problem with corruption.<sup>7</sup>

4 *Azerbaijan to Maintain its Inactive Status in the Open Government Partnership*, Open Government Partnership, 29 June 2017, <https://www.opengovpartnership.org/about/news-and-events/azerbaijan-maintain-its-inactive-status-open-government-partnership>

5 *An Assessment Report on the Implementation of OGP Recommendations for the Government of Azerbaijan*, Gubad Ibadoglu, Public Initiatives Center, Eastern Partnership Civil Society Forum, October 2018, <http://eap-csf.eu/wp-content/uploads/An-alternative-assessment-report-of-OGP-recommendation-by-PIC-01-November-2018.pdf>

6 *Azerbaijan Suspension Extended; Bosnia and Herzegovina and Trinidad and Tobago Designated Inactive in OGP*, Open Government Partnership, 11 December 2018, <https://www.opengovpartnership.org/about/news-and-events/azerbaijan-suspension-extended-bosnia-and-herzegovina-and-trinidad-and-tobago>

7 *Transparency International Corruption Perceptions Index 2017*, Transparency International, 21 February 2018, [https://www.transparency.org/news/feature/corruption\\_perceptions\\_index\\_2017](https://www.transparency.org/news/feature/corruption_perceptions_index_2017)

## NGOs Continue to Face Complex Process for Registration of Grants

The closing down of space for civil society to operate in Azerbaijan hurts the most vulnerable in society. The requirement that local CSOs have to register every single grant agreement/service contract and that international donors must obtain the right (licence) to act as a donor has further complicated the work of civil society.

"On 21 October 2016, President Aliyev signed an important decree on Simplification of Registration of Foreign Grants in Azerbaijan. According to the decree, from 1 January 2017, a 'one-stop-shop' approach would be applied to the procedure for registering foreign grants in Azerbaijan."<sup>8</sup> On 11 January 2017, the Cabinet of Ministers introduced additional changes to the Rules on Registration of Grant Agreements (Decisions).<sup>9</sup>

<sup>8</sup> *Civic Freedom Monitor: Azerbaijan*, The International Center for Not-for-Profit Law, 21 March 2018, <http://www.icnl.org/research/monitor/azerbaijan.html>

<sup>9</sup> Rules on registration of grants, see <http://cabmin.gov.az/?/az/pressreliz/view/2202/>

The changes aimed to simplify the process, but were mostly of a technical nature. The complex, multi-step registration procedure for grants and donors remained in place, and the Ministry of Justice continued to have unlimited discretion to decide whether to register a grant or to deny registration.

The changes eliminate neither government discretion over whether to approve or deny the registration of a grant nor the burdensome two-stage process of registering a grant. "The government is still yet to dismantle the overall complex and burdensome legal environment for NGOs in the country."<sup>10</sup>

Therefore, the government needs to make changes to the legislation to rectify the process for both NGOs and donors. Without such reforms, local NGOs will continue to be starved of funding and their ability to function and work will continue to be impeded.

<sup>10</sup> *Civic Freedom Monitor: Azerbaijan*, The International Center for Not-for-Profit Law, 21 March 2018, <http://www.icnl.org/research/monitor/azerbaijan.html>

On 15 April 2018, an independent external investigation report into allegations of corruption within the Parliamentary Assembly of the Council of Europe (PACE) resulted in the publication of a list of PACE members who had been permanently banned from the Assembly because of their involvement in corruption and the violation of ethical standards. Two full PACE members from Azerbaijan were on the list, and the committee decided that sanctions should be applied against the head of the Azerbaijan delegation to PACE, Samad Seyidov.<sup>11</sup>

The most glaring case of nepotism in the country was the appointment in February 2017 of Mehriban Aliyeva, wife of President Ilham Aliyev, as the country's Vice President. The post "had been created via constitutional changes that were pushed through in 2016 without meaningful parliamentary debate or public consultation".<sup>12</sup>

## PARTNERSHIP PRIORITIES WITH EU AGREED, TALKS ON WIDER AGREEMENT CONTINUE

Negotiations went into a third year on the draft text of a Strategic Modernisation Partnership

<sup>11</sup> *Report of the Independent Investigation Body on the Allegations of Corruption within the Parliamentary Assembly*, Council of Europe, 15 April 2018, <http://assembly.coe.int/Communication/IBAC/IBAC-GIAC-Report-EN.pdf>

<sup>12</sup> *Freedom in the World 2018. Azerbaijan Profile*, Freedom House, <https://freedomhouse.org/report/freedom-world/2018/azerbaijan>

Agreement with the EU. On 11 July 2018, EU High Representative for Foreign Affairs and Security Policy, Federica Mogherini, and Azerbaijan's Foreign Minister, Elmar Mammadyarov, announced the completion of negotiations of the Partnership Priorities, although talks on the bilateral partnership agreement remain incomplete.

Four main areas of co-operation were agreed as EU-Azerbaijan Partnership Priorities. These broadly reflect those already identified under the Eastern Partnership framework,<sup>13</sup> namely:

- **Strengthening institutions and good governance.** This includes the fight against corruption, public administration reform and capacity building for combating crime and terrorism.
- **Economic development and market opportunities.** This includes the sustainable diversification of the economy, support for WTO membership, and improving the business and investment environments.
- **Connectivity, energy efficiency, environment and climate action.** Building on the successful co-operation on energy connectivity and significant progress made on the Southern Gas Corridor, this includes support for Azerbaijan's ability to operate as a trade, logistics and transport hub,

<sup>13</sup> *Partnership Priorities between EU and Azerbaijan Reinforce the Bilateral Agenda*, European External Action Service, 11 July 2018, [https://eeas.europa.eu/headquarters/headquarters-homepage/48244/partnership-priorities-between-eu-and-azerbaijan-reinforce-bilateral-agenda\\_en](https://eeas.europa.eu/headquarters/headquarters-homepage/48244/partnership-priorities-between-eu-and-azerbaijan-reinforce-bilateral-agenda_en)



and support for regulatory assistance and sustainable management of resources.

- **Mobility and people-to-people contacts.** This includes support to education and human capital, and providing more opportunities for EU and Azerbaijani citizens to meet and to share experiences.

The Partnership Priorities will provide the policy framework for EU-Azerbaijan financial co-operation for 2018-2020.

On 4 July 2018, the European Parliament listed a set of preconditions for the deepening of ties between the EU and Azerbaijan, including ensuring that core EU values and rights are respected.

MEPs urged the EU side to ensure that the new agreement does not take effect until after the European Parliament has given its consent.

The legislators called on the European Council, the European Commission, and the High Representative, Federica Mogherini, to ensure that the strengthening of bilateral relations was “conditional upon it upholding and respecting democracy, the rule of law, good governance, human rights, and fundamental freedoms”, including the release of all political prisoners and prisoners of conscience before negotiations were concluded.<sup>14</sup>

Azerbaijan must also fight corruption, money laundering, and tax evasion, they added.<sup>15</sup>

Azerbaijan trails behind the three AA signatory countries and Armenia in the **Approximation** dimension of the Index 2017, and is the worst placed EaP country in democratic rights and elections. Azerbaijan also trails as the weakest performer with regards to the independence of the judiciary, media independence, and freedom of speech and assembly.

In contrast, it leads in sustainable development policy, notably due to the oil economy’s relatively better health and poverty indicators.

<sup>14</sup> The European Parliament’s recommendation to negotiators working on the EU-Azerbaijan Comprehensive Agreement was passed by 564 votes to 69, with 47 abstentions.

*MEPs List Conditions for New EU-Azerbaijan Deal*, European Parliament, 4 July 2018, <http://www.europarl.europa.eu/news/en/press-room/20180628IPR06823/meps-list-conditions-for-new-eu-azerbaijan-deal>

<sup>15</sup> *No New EU-Azerbaijan Pact Without Progress on Human Rights*, Radio Free Europe/Radio Liberty, 5 July 2018, <https://www.rferl.org/a/no-new-eu-azerbaijan-pact-without-progress-on-human-rights/29340665.html>

In the **Linkage** dimension of the Index 2017, Azerbaijan is also ranked fifth of the six countries, and is the lowest scoring country in terms of international security, political dialogue and co-operation. Azerbaijan registered an increase in cultural exchange and co-operation, but a slippage in co-operation in science and education.

## GOVERNMENT CONTINUES TO SILENCE POLITICAL DISSENT AND FREE MEDIA

The government continued to wage a crackdown on critics and dissenting voices. In 2018, Azerbaijan was classified as a consolidated authoritarian regime with a score of 6.93 in Freedom House’s *Nations in Transit* report.<sup>16</sup> According to the *World Press Freedom Index*, Azerbaijan ranked 163 out of 180 countries.<sup>17</sup>

President Ilham Aliyev won a fourth consecutive term, taking 86% of the vote in a snap election on 11 April 2018 that was boycotted by the main opposition parties. The authorities have cleansed the political landscape of “virtually all formal avenues of expressing dissent”, stated the Committee to Protect Journalists (CPJ) ahead of the election.

CPJ said the tactics included “throwing journalists in jail, abducting them from abroad, accusing them of financial misdeeds, blocking websites, hacking social media accounts, [and] imposing travel bans”. Meanwhile, opposition candidates were “either jailed or barred” from running in the presidential election.<sup>18</sup>

Preliminary findings from OSCE election monitors pointed to several “serious violations”, including ballot-box stuffing, “seemingly identical” signatures on voter lists, as well as group, proxy, and multiple voting.

<sup>16</sup> *Nations in Transit 2018. Confronting Illiberalism*, Freedom House, <https://freedomhouse.org/report/nations-transit/nations-transit-2018>

<sup>17</sup> *2018 World Press Freedom Index*, Reporters Without Borders, <https://rsf.org/en/ranking>

<sup>18</sup> *Azerbaijan Goes to the Polls amid Muzzled Media and Blocked Websites*, Gulnoza Said, Committee to Protect Journalists, 6 April 2018, <https://cpj.org/blog/2018/04/azerbaijan-goes-to-the-polls-amid-muzzled-media-an.php>

On 12 April, the OSCE said that more than half the vote counts were assessed negatively, largely due to “deliberate falsifications” and an “obvious disregard for procedures”.

On election day, the Election Monitoring and Democracy Studies Centre (EMDS) recorded “widespread, serious election violations that undermined voting and counting processes. This included voting without registration in 47% of polling stations, ballot-box stuffing in 53% of polling stations, and multiple voting in 53% of polling stations.”<sup>19</sup>

The OSCE observers’ report on the election called on the government to bring the legal framework in line with international standards and obligations.<sup>20</sup>

19 *Preliminary Statement on Findings of Monitoring the 11 April 2018 Early Presidential Election in Azerbaijan*, Election Monitoring and Democracy Studies Centre, 12 April 2018, <https://smdtaz.org/wp-content/uploads/2018/04/EMDS-120418.pdf>

20 *Republic of Azerbaijan Early Presidential Election 11 April 2018. ODIHR Election Observation Mission Final Report*, OSCE, 18 July 2018, <https://www.osce.org/odihr/elections/azerbaijan/388580?download=true>

## Authorities Can Block Websites Without a Court Ruling

In March 2017, the parliament passed amendments to the law on Information, Informatisation, and Protection of Information to allow the authorities to shut down websites without a court ruling.

“According to these amendments, if a website contains prohibited information that poses danger to state or society (special circumstances), the relevant authority can block the website without a court order within eight hours of notifying the manager and editor of a website,” writes Arzu Geybullayeva for openDemocracy. “The lack of necessity for a court order (although in regular circumstances it must be obtained) allowed the authorities to block some of the most prominent news outlets in Azerbaijan.”

“Since May 2017, over 20 websites have been blocked in Azerbaijan, including Azadliq Radio (Radio Free Europe/Radio Liberty Azerbaijan service) and RFE/RL’s international service, Azadliq Newspaper (independent of the Azadliq radio), Meydan TV, Turan TV and Azerbaijan Saadi (Azerbaijan Hour), OCCRP (Organised Crime and Corruption Reporting Unit), abzas.net, obyektiv.tv and others.”<sup>21</sup>

There were 7.8 million internet users in 2017, around 78% of the population of Azerbaijan.<sup>22</sup> Social media serve as platforms for free expression and activism. Just as Facebook is the leading social network by a wide margin, Twitter is used by politicians and prominent activists.

21 *Azerbaijan’s Blocking of Websites is a Sign of Further Restrictions Online*, Arzu Geybullayeva, openDemocracy, 31 August 2018, <https://www.opendemocracy.net/od-russia/arzu-geybullayeva/azerbaijans-blocking-of-websites>

22 Internet World Stats, [www.internetworldstats.com](http://www.internetworldstats.com)

## RIGHTS VIOLATIONS – POLITICAL PRISONERS AND PRISONERS OF CONSCIENCE

There are political prisoners in the country, but the count varies for two reasons. Firstly, some prisoners are released, yet the authorities continue to harass civil activists, and the list is constantly replenished with new political prisoners. The second reason is that there are three different lists prepared by three different groups of civil society.

The first list is compiled by the Monitoring Group of Human Rights Organisations of Azerbaijan. In co-operation with other high-profile human rights defenders, they submitted a list of 32 political prisoners to the pardoning commission. This list comprises mostly civil activists, including young bloggers, journalists, and politicians.

Alongside this list, the group presented a list of more than 80 Muslim religious figures arrested for political reasons. Human rights defenders have called for a fair investigation and trial in each of their cases, as many violations of their rights were evident. However, in accordance with the criteria of the Council of Europe, human rights activists recorded them not as political prisoners, but as persons arrested for political reasons.

Two other groups of civil activists have prepared lists with the number of political prisoners ranging between 80 and 100, where most of the prisoners included are religious figures.

The European Court of Human Rights has issued rulings on the cases of 11 applicants from Azerbaijan, including complaints by opposition activists: Bayram Bayramov, Majid Mejdli, Vidadi Iskenderov, Ikram Israfilov, Hikmet Agayev and Rovshan Guliyev. They were sentenced to administrative arrest for up to 15 days for taking part in peaceful protests in Baku on 31 July 2010, and on 2 and 17 April 2011.

The court ruled that their rights had been violated under Articles 6 (right to a fair trial), 10 (freedom of expression) and 11 (freedom of assembly) of the European Convention on Human Rights.

Azerbaijan has partially implemented the decisions of the European Court, but there is a long wait even when compensation is forthcoming.

## ENERGY TRADE DRIVES ECONOMIC RELATIONS

Azerbaijan has tried to balance relations with the EU and Russia, without seeking formal membership of trade blocs led by either side. “The geopolitical and economic situation in Eastern Europe and the South Caucasus has become more complicated and unpredictable” writes Surayya Mammadova, “forcing both the EU and Azerbaijan to re-evaluate their strategic priorities”.<sup>23</sup>

Relations between Azerbaijan and Russia have been developing in both the political and the economic spheres. From July-September 2018, President Aliyev met with Russian President Vladimir Putin four times.

When they met in Sochi, Russia, in September 2018, the two heads of state signed a Joint Statement on Priority Areas of Economic Co-operation between Russia and Azerbaijan. Agreements were signed on strengthening economic co-operation, on enhancing co-operation in industry, and on participation in tourism, sport, and digital transport systems. The documents signed also concerned customs controls, developing assembly manufacturing of GAZ vehicles in Azerbaijan, joint surveying of the oil and gas potential in Azerbaijan’s section of the Caspian Sea bed, and the promotion of SMEs.

“Last year trade between our countries grew by 34% – even over 34% – whereas in the first six months of this year the sales volumes of private industry products grew by 20%. These are excellent indicators,” said Putin.<sup>24</sup>

Long-term negotiations on the status of the Caspian Sea came to an end on 12 August 2018. Iran and four ex-Soviet nations, including Azerbaijan and Russia, signed the

<sup>23</sup> *The EU and Azerbaijan: What is on the Negotiation Table?* Surayya Mammadova, The Central Asia-Caucasus (CACI) Analyst, 12 September 2017, <https://www.cacianalyst.org/publications/analytical-articles/item/13469-the-eu-and-azerbaijan-what-is-on-the-negotiation-table?.html>

<sup>24</sup> *Putin: Azerbaijan-Russia Relations Developing Along Both Political and Economic Lines*, AzerNews, 1 September 2018, <https://www.azernews.az/nation/136988.html>

Caspian Convention and agreed in principle how to divide up the potentially vast oil and gas resources of the Caspian Sea, paving the way for more energy exploration and pipeline projects. One possibility is a pipeline across the Caspian Sea that could ship natural gas from Turkmenistan to Azerbaijan and onwards to EU countries, a supply of gas that could compete with Russia in Western markets.

“Moscow has no outstanding territorial disputes but has objected, citing environmental concerns, to the construction of a natural gas pipeline between Turkmenistan and Azerbaijan which would allow Turkmen gas to bypass Russia on its way to Europe.”<sup>25</sup>

<sup>25</sup> *Russia, Iran, and Three Others Agree Caspian Status, but Not Borders*, Olzhas Auyezov, Reuters, 12 August 2018, <https://www.reuters.com/article/us-kazakhstan-caspian-borders/russia-iran-and-three-others-agree-caspian-status-but-not-borders-idUSKBN1KX0CI>

## Opposition Leader Mammadov Released After Aliyev Re-Elected in Early Presidential Poll

According to a list compiled by local human rights activists, there are more than 150 political prisoners in Azerbaijan. Although this situation has existed for more than 25 years, in recent years the arrest of innocent people on false and fabricated charges has become increasingly common.

“The government intensified its crackdown against critics in 2017,” reported Human Rights Watch. “Courts sentenced at least 25 journalists and political and youth activists to long prison terms in politically motivated, unfair trials. Dozens more were detained or are under criminal investigation, face harassment and travel bans, or have fled. Draconian laws and regulations impede independent groups’ work and ability to secure funding. Torture and ill-treatment in custody persist. In a violent campaign, police arrested and ill-treated dozens of gay men and transgender women.”<sup>26</sup>

Ilqar Mammadov, the leader of the opposition Republican Alternative (REAL) party, was released from prison after serving more than five years after a court of appeals ruled on 13 August 2018 that his remaining prison term should be suspended. The court also ruled that for a two-year probation period Mammadov would not be allowed to leave the country.

Mammadov was arrested in February 2013, shortly after he had announced he would run for President in the October 2013 elections, and he was charged with organising riots in the town of Ismayilli. He was sentenced to seven years in jail in March 2014. His release took place after the April 2018 presidential elections, but ahead of a visit to Baku on 23 August by German Chancellor Angela Merkel, “leading to some speculation that the Azerbaijani government was trying to make a gesture to blunt potential criticism”, reported Eurasianet.

In 2014, the European Court of Human Rights ruled that Mammadov’s arrest and pre-trial detention were initiated to silence him from criticising the government. In December 2017, the Council of Europe launched a legal action against Azerbaijan over Mammadov’s detention.

On 13 August, Council of Europe Secretary General Thorbjorn Jagland welcomed the court order to release Mammadov, saying that “political prisoners in Europe, innocent people, should not be deprived of their liberty.”<sup>27</sup> Mammadov said: “It is a victory, but it is not a full one. We demand acquittal.”

<sup>26</sup> *Human Rights Watch World Report 2018. Azerbaijan – Events of 2017*, Human Rights Watch, <https://www.hrw.org/world-report/2018/country-chapters/azerbaijan>

<sup>27</sup> *Azerbaijani Opposition Leader Ilqar Mammadov Freed*, Lamiya Adilgizi, Eurasianet, 13 August 2018, <https://eurasianet.org/azerbaijani-opposition-leader-ilqar-mammadov-freed>



The signed Convention will not have immediate implications for the energy sector. But, at the end of the second quarter of 2018, the Trans-Adriatic (TAP) project, the main gas pipeline from Azerbaijan to the EU, was more than 76% completed.

TAP is designed to reach a delivery capacity of 20 billion cubic meters per year, of which 50% would emanate Azerbaijan's gas reserves from the Shah-Deniz field.

The remaining 50% is expected to come from the Trans Caspian Gas Pipeline (TCGP), which plans to carry 16 billion cubic metres per annum. The TCGP would pass from Azerbaijan through the South Caucasus Pipeline, then via Turkey's east-west Trans-Anatolian Gas Pipeline (TANAP) to Greece, and from there to Italy by way of the Trans-Adriatic Pipeline (TAP).

After the signing of the Convention on the legal status of the Caspian Sea, the idea of the realisation of the TCGP is under question, since the Convention requires the consent of all countries of the Caspian Sea Basin. In current circumstances, neither Russia nor Iran would agree.

Some improvement was observed during 2017-2018 in the context of energy co-operation between Azerbaijan and the EU. Azerbaijan is an important energy partner for the EU and plays a pivotal role in bringing Caspian energy resources to the EU market through the Southern Gas Corridor (SGC). Azerbaijan currently supplies around 5% of the EU's gas demand.

In 2017, the economy remained strongly dependent on oil and gas output, which accounted for roughly 90% of its export revenue. After a decline in the output of oil and oil-products, real GDP contracted by 3.8% in 2016 before recovering somewhat with growth of 0.1% in 2017.<sup>28</sup>

The EU continues to be Azerbaijan's top trading partner and its biggest export and import market, accounting for 48.6% of Azerbaijan's total trade and providing its most significant source of foreign direct investment in 2017.

28 Azerbaijan. 2018 Investment Climate Statements Report, Bureau of Economic and Business Affairs, US State Department, 19 July 2018, <https://www.state.gov/e/eb/rls/othr/ics/2018/eur/281559.htm>

## IMPROVEMENTS IN BUSINESS CLIMATE, BUT FRAGILE FINANCIAL SECTOR

Azerbaijan has improved its position in the World Economic Forum (WEF)'s *Global Competitiveness Report 2017-2018*, climbing from 37th to 35th place in the world ranking.<sup>29</sup> Azerbaijan ranked third among emerging economies in WEF's annual *Inclusive Development Index 2018*.<sup>30</sup>

Designed as an alternative to GDP, the *Inclusive Development Index* more accurately reflects

29 *The Global Competitiveness Report 2017-2018*, World Economic Forum, <https://www.weforum.org/reports/the-global-competitiveness-report-2017-2018>

30 *The Inclusive Development Index 2018*, World Economic Forum, <https://www.weforum.org/reports/the-inclusive-development-index-2018>

## Assault on Independent Lawyers Compounds Lack of Independent Courts

The year 2017 marked the year when the Azerbaijani authorities began to systematically eliminate the independent legal profession as an institution. On 31 October 2017, the parliament adopted at the first reading changes to the Code on Civil Procedure<sup>31</sup> by which legal entities need to hire advocates (members of the Bar Collegium) to act on their behalf in domestic courts. In effect, the institute of civil representation was changed.

"The amendments herald the end of a two-tiered legal system that Azerbaijan adopted under pressure from its fellow members in the Council of Europe," explained Mike Runey, writing for Eurasianet. "Azerbaijani lawyers are either *vəkillər*, licensed bar members who pass a series of written tests and a highly politicised oral examination, or *hüquqşünaslar*, registered lawyers who have not passed the bar but, until now, have been entitled to represent clients in all non-criminal courts."

The new situation exerts not only an adverse effect on the institute of legal advocacy in Azerbaijan, but also puts higher pressure on independent lawyers.

"Under the amendments, an estimated 8,000 registered lawyers stand to be barred from representing clients in any Azerbaijani court, leaving a nation of nearly 10 million people with only 934 registered legal professionals. At roughly nine lawyers per 100,000 people, that would be a ratio that is 18 times lower than the European average, and by far the lowest figure of any Council of Europe member."<sup>32</sup>

Azerbaijan has abandoned international standards. Worse still, the amendment gives the state-controlled bar association complete control over the legal profession. Observers, as well as members of the legal community, characterise the move as the latest and most decisive step in an escalating crackdown on the country's few remaining human rights lawyers.

31 The text of the changes; <http://meclis.gov.az/?/az/law/1546/1>

32 *Azerbaijan Moves to Drastically Cut Number of Lawyers*, Mike Runey, Eurasianet, 7 November 2017, <https://eurasianet.org/azerbaijan-moves-to-drastically-cut-number-of-lawyers>

the criteria by which people assess the economic progress of their countries. In the current report, Azerbaijan received 4.69 out of a maximum possible seven points.

According to the World Bank, Azerbaijan entered the top three in the Europe and Central Asia region in the global *Doing Business 2018* rating. Azerbaijan ranked 57th among 190 countries in *Doing Business 2018*. The distance to frontier score stood at 70.19.<sup>33</sup> In the previous report, Azerbaijan ranked 65th and scored 67.07.

Azerbaijan continues to suffer shortcomings in economic freedom according to the assessment of the Fraser Institute in Canada, which placed Azerbaijan 106th in the *Economic Freedom Index 2018*.<sup>34</sup> A key challenge is the financial sector. Against a background of general economic problems, the situation in the financial sector has worsened each year since 2015.

Following the revocation of the licences of 13 banks, there are currently 30 banks in operation. According to the *Economist Intelligence Unit (EIU)*,<sup>35</sup> the banking market is uniform and concurrently fragmentary, poorly developed and notable for its weak model of corporate management. The EIU report places emphasis on the insignificant share of bank lending in GDP and the insignificant intermediary role of credit-financial organisations in the national economy. In parallel, the reach of the state and the political elite on the sector continued to grow.

According to the *Global Findex 2017*,<sup>36</sup> the banking system of Azerbaijan started to lose its position in terms of trend and international comparisons in 2014. As a comparison, neighbouring Georgia maintained its leading position in the region – with a 61% share of the adult population having bank accounts, compared with 29% in Azerbaijan and 48% in

33 The distance from frontier measure shows the distance of each economy to the “frontier”, which represents the best performance observed on each of the indicators.

*Doing Business 2018. Reforming to Create Jobs*, World Bank, <http://www.doingbusiness.org/content/dam/doingBusiness/media/Annual-Reports/English/DB2018-Full-Report.pdf>

34 *Economic Freedom of the World: 2018 Annual Report*, Fraser Institute, 25 September 2018, <https://www.fraserinstitute.org/studies/economic-freedom-of-the-world-2018-annual-report>

35 *Industry Report: Financial Services 3rd Quarter 2017*, Economist Intelligence Unit, [www.eiu.com](http://www.eiu.com)

36 *The Global Findex Database 2017*, World Bank, [https://globalfindex.worldbank.org/#data\\_sec\\_focus](https://globalfindex.worldbank.org/#data_sec_focus)

Armenia. The average value of the index for developing countries is 67%.

“One of the banking sector’s main problems is the continuing growth in non-performing loans. According to the State Statistical Committee, about 19% of all consumer loans in Azerbaijan accounts for non-performing loans of over US\$1bn.”<sup>37</sup> According to independent calculations, the current volume of non-performing loans exceeds one-third of the capital in the country’s banks and non-banking credit institutions.

Soviet-style quotas for cotton production are still set by the state (270,000 tonnes for 2018), and the government aims to increase production to 500,000 tonnes by 2022. Approximately 100,000 people are victims of annual forced labour, when employees from schools, hospitals, and state budget organisations are sent to the fields to pick cotton to fulfil production quotas.

In June 2018, over 300 people – including children – had to be hospitalised after being poisoned while working in the cotton fields. The cotton sector also suffers from the fact that it is a buyer monopoly, controlled by two kleptocratic monopolies while the labour unions are complicit with the government. Land rights are also disregarded. If farmers refuse to grow cotton, the government can confiscate their land. Moreover, 3.5% of labourers in the sector are children under the age of 14, and yet neither ILO nor UNICEF are actively involved in child and forced labour issues in Azerbaijan.

## OIL REVENUES BRING GROWTH, BUT ALSO EXPOSURE TO EXTERNAL SHOCKS

If oil prices do not fall, the economy is likely to grow faster. According to the forecasts of the World Bank, in 2018 Azerbaijan’s GDP was set to grow by 1.8%, then by 3.8% in 2019 and by 3.2% in 2020. The main driving force of the growth will be the export of hydrocarbon resources, making possible a return of real GDP to 2016 levels in 2020. Moreover, the revenues from the State Oil Fund in the 2018 budget amounted to ca 50% of state budget revenues. Additional oil-related revenue – from the profit

37 *Azerbaijan. 2018 Investment Climate Statements Report*, Bureau of Economic and Business Affairs, US State Department, 19 July 2018, <https://www.state.gov/e/eb/rls/othr/ics/2018/eur/281559.htm>



of foreign oil companies operating in Azerbaijan and of the state oil company – brings the share of direct oil revenues in the state budget to 60% in 2018. If we took into account indirect oil revenues, then two out of every three manats of budget revenues would be formed from revenues from the oil sector.

In 2018, the share of crude oil, oil products and natural gas in the total volume of exports amounted to 90% or \$ 7.9 billion. This exposure of the economy to external shocks that could lead to a fall in oil prices means that the government needs to strengthen efforts to foster diversification of the economy as well as to tackle corruption, and enhance transparency and accountability in the public finance management system.

Azerbaijan scores highest among the EaP countries on sustainable development. The government has adopted 12 Strategic Roadmaps on future socio-economic development, focusing on sustainable development, green economy, sustainable consumption and production, and the country ranked 48th out of 157 countries in the SDG Global index.<sup>38</sup>

Azerbaijan had the highest industry value added of the six EaP countries, a measure of the effectiveness of production and the productivity of the workforce, and the availability and quality of necessary production equipment, technology, and innovative business models.

In comparison with the other five countries, according to the European Bank for Reconstruction and Development (EBRD), Azerbaijan leads in terms of life satisfaction.

## TROUBLED BY UNEMPLOYMENT, AZERIS SHOW LOW AWARENESS ABOUT EU

According to the EU Attitudes Survey conducted in 2017 by EU Neighbours East/ECORYS, 19% of Azeris had never heard of the EU (in 2016, 37% of Azeris stated that they had never heard of the EU, but the survey question was changed

38 *SDG Index and Dashboards Report 2017. Global Responsibilities – International Spillovers in Achieving the Goals*, Bertelsmann Stiftung and Sustainable Development Solutions Network, July 2017, <https://worldmerit.org/new-index/includes/brochures/SDG-Index-Report.pdf>

in 2017 to allow for the fact that there is no commonly agreed term for the EU in the local language). In the spring 2018 survey, the figure fell to 17%, but the finding nevertheless showed a level of unawareness of the EU in Azerbaijan much higher than in the other EaP countries.

Among those Azeris aware of EU financial support to their country, the number who deemed the financial support to have been effective grew from 65% in 2017 to 78% in 2018.<sup>39</sup>

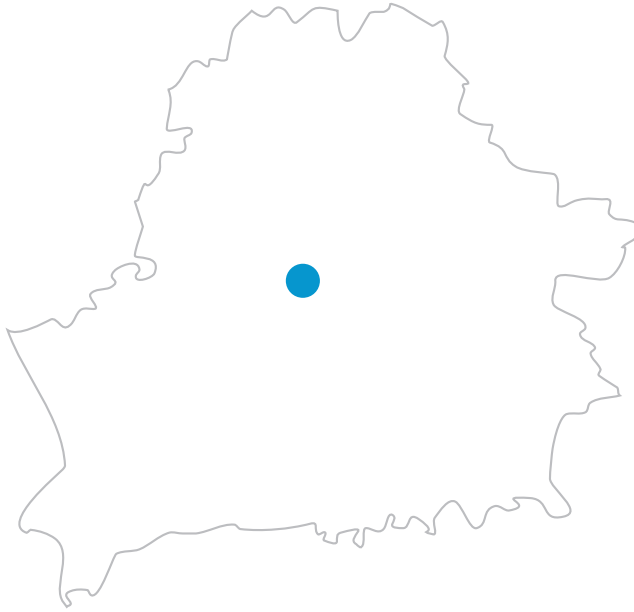
The most pressing problems in Azerbaijan were identified as unemployment (80%), low salaries/pension (32%), security issues/war (27%), low living standards/poverty (26%), territorial conflicts (25%), corruption (25%), high prices and taxes (22%), and economic crisis (21%). In the 2018 survey, the most pressing issues were unemployment (cited by 72%), low salaries/pensions (38%), corruption (28%), low living standards/poverty (23%), security issues/war (19%), high prices and taxes (18%), and territorial conflicts (18%).<sup>40</sup>

39 *Annual Survey Report: Regional Overview, 2nd Wave (Spring 2017)*, OPEN Neighbourhood – Communicating for a Stronger Partnership: Connecting with Citizens Across the Eastern Neighbourhood, EU Neighbours East/ECORYS, June 2017, [https://www.euneighbours.eu/sites/default/files/publications/2017-10/EUNEIGHBOURSeast\\_AnnualSurvey2017report\\_EaP\\_OVERVIEW\\_0.pdf](https://www.euneighbours.eu/sites/default/files/publications/2017-10/EUNEIGHBOURSeast_AnnualSurvey2017report_EaP_OVERVIEW_0.pdf)  
40 *Annual Survey Report: Azerbaijan. 3rd Wave (Spring 2018)*. OPEN Neighbourhood – Communicating for a Stronger Partnership: Connecting with Citizens Across the Eastern Neighbourhood, EU Neighbours East/ECORYS, June 2018, <https://www.euneighbours.eu/en/east/stay-informed/publications/opinion-survey-2018-azerbaijan>

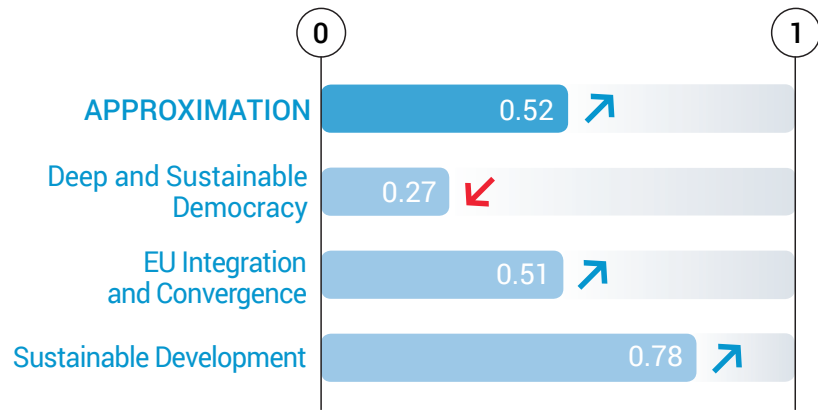




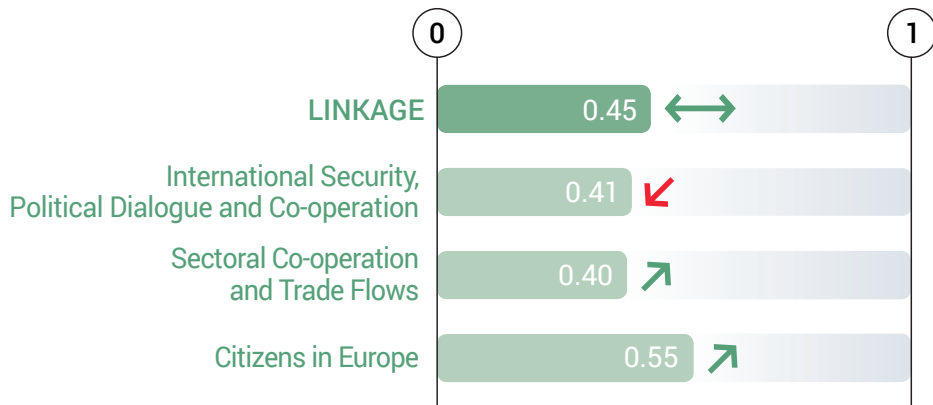
# BELARUS



## APPROXIMATION



## LINKAGE



# BELARUS

## TOP CHALLENGES FOR 2019

- The continued widespread repression against civic activists and independent media threatens the prospects for the development of Belarusian-EU co-operation. The authorities in Belarus have issued declarative plans to change the situation concerning human rights and should build on this with real actions, including full co-operation with the Belarusian human rights community and international structures.
- Belarus and the EU should assign high importance to the finalisation and signing of EU-Belarus partnership priorities, as well as to removing existing obstacles to the signing of a Visa Facilitation and Readmission Agreement.
- Before the launch of the Astravets nuclear power plant, the Belarusian authorities can make a positive, goodwill gesture by implementing the recommendations made by the European Nuclear Safety Regulators Group after conducting stress tests.
- Civil society organisations should apply concerted efforts to make maximum use of the more open communications channels currently available with the Belarusian authorities to advocate for priority reforms.

## GRADUALLY INCREASING CO-OPERATION WITH EU, SCARCE PROGRESS AT HOME

Belarus faced two paradoxical sets of developments in 2017. Concerning the domestic political context, the beginning of the year was marked by the suppression and mass detention of peaceful protesters who rallied against the presidential decree on the prevention of freeloading practices in February-March 2017, and it culminated in an attack by the state on independent media in early August 2018.

On the other side of the spectrum, these events barely registered when it came to the evolving foreign policy relations of Belarus. The gradual expansion of co-operation with the EU continued, allowing the Belarusian authorities to draw a number of symbolic and practical

benefits: from hosting the annual session of the OSCE (Organization for Security and Co-operation in Europe) Parliamentary Assembly in Minsk to the expansion of credit lines provided by the European Bank for Reconstruction and Development (EBRD) and the European Investment Bank (EIB).

At the same time, there was no significant progress in the development of the treaty basis of relations with the EU. The expected signing of a Visa Facilitation and Readmission Agreement, as well as the consolidation of a new format of strategic relations in the form of partnership priorities, did not take place either ahead of the Eastern Partnership summit in Tallinn, Estonia, in November 2017 or subsequently.

Throughout the period, relations between Belarus and its eastern neighbour, Russia, remained strained, and were accompanied by mutual recriminations (for instance on the



relaxation by Belarus of visa requirements for EU citizens in January 2017) and trade disputes (principally, the terms for Belarus's energy imports from Russia).

Despite stabilisation of the Belarusian economy, low economic growth (2-3%) persists. The economy remains at risk from external shocks and is vulnerable to an increase in the level of payments due on external loans from previous periods. In response, the government introduced a series of measures to liberalise the economy and to stimulate the development of promising sectors of the economy, such as the IT sector and tourism.

The main document in the so-called Package of adopted documents on the liberalisation of business conditions in Belarus<sup>1</sup> was Presidential Decree No. 7 “on the development of entrepreneurship”, which simplified the conditions for starting and running a business; prohibited the introduction of new taxes until 2020; limited government intervention in the work of business; and established a notification procedure for starting businesses in a number of activities.<sup>2</sup> In addition to Decree No. 7, special Decree No. 8 “On the Development of the Digital Economy”<sup>3</sup>, which stipulated the further development of a Belarusian High Tech Park and IT companies, was adopted, and the term of visa-free stays for foreign tourists was extended to 30 days.<sup>4</sup>

In the **Approximation** dimension of the Index 2017, Belarus lags behind all the other EaP countries, although the gap has begun to close in the light of initial steps taken to improve environment and climate policy, alongside the continued positive assessment of the business climate. Belarus continues to score poorly due to the country's persistently poor record on democracy and human rights.

1 *Основные положения декрета №7 вступили в силу 26 февраля* (The Main Provisions of Decree No. 7 Entered into Force on 26 February), belta.by, 26 February 2018, <https://www.belta.by/economics/view/osnovnye-polozhenija-dekreta-7-vstupajut-v-silu-26-fevralja-291500-2018/>

2 *Decree of the President of the Republic of Belarus on the Development of Entrepreneurship*, 23 November 2017 No. 7 (which came into force on 26 February 2018), <http://www.pravo.by/document/?guid=12551&p0=Pd1700007&p1=1&p5=0>

3 *Decree No. 8 on the Development of the Digital Economy*, 21 December 2017, [http://president.gov.by/ru/official\\_documents\\_ru/view/dekret-8-ot-21-dekabrya-2017-g-17716/](http://president.gov.by/ru/official_documents_ru/view/dekret-8-ot-21-dekabrya-2017-g-17716/)

4 *Срок безвизового пребывания иностранных граждан в Беларуси продлен до 30 суток* (The Term of Visa-Free Stay of Foreign Citizens in Belarus Extended to 30 Days), [http://president.gov.by, 24 July 2018, http://president.gov.by/ru/news\\_ru/view/srok-bezvizovogo-prebyvanija-inostrannyx-grazhdan-v-belarusi-uvelichen-do-30-sutok-19176/](http://president.gov.by, 24 July 2018, http://president.gov.by/ru/news_ru/view/srok-bezvizovogo-prebyvanija-inostrannyx-grazhdan-v-belarusi-uvelichen-do-30-sutok-19176/)

In the **Linkage** dimension of the Index 2017, Belarus is also the lowest placed EaP country. As a member of the Collective Security Treaty Organisation (CSTO) and the Eurasian Economic Union (EAEU), both Russia-led blocs, Belarus has the lowest share of trade with the EU of the six EaP countries, alongside a lower level of political and security dialogue with the EU.

## DEMOCRACY AND HUMAN RIGHTS: REPRESSION RETURNS TO PREVIOUS LEVELS

Political life in Belarus can still be characterised by the complete control of the executive over all other branches, the suppression of independent media, and the restriction of fundamental civic and political freedoms. Neither civil society nor opposition political structures are able to exert any significant influence on the adoption of political decision-making. The election of two independent MPs in the 2016 parliamentary elections did not pave the way for independent structures to overcome their own marginalisation.

One positive trend is the continuation of the common areas for dialogue between representatives of civil society and the state (the Belarus-EU Co-ordination Group, the Human Rights Dialogue, and public advisory councils under several ministries). However, the overall level of interaction remains minimal and is limited to consultations. The exception is the participation of business associations in public advisory councils under most ministries within the framework of a general policy of economic liberalisation and stimulation of business activity. Issues of political reforms, the rule of law, and improvement of the human rights situation are limited to a rhetorical exchange of views.

According to Belarusian human rights activists, after a period of relatively mild repression, in 2017 the human rights situation deteriorated significantly.<sup>5</sup> Mass protests against Presidential Decree No. 3 “On the prevention of freeloading practices” (the so-called “idleness decree” or the “social parasite tax” decree) in February-March

5 *Human Rights Situation in Belarus in 2017. Analytical Review*, Human Rights Center “Viasna”, 15 January 2018, <http://spring96.org/en/news/88849>

2017 met with a disproportionately harsh reaction from the authorities.

On 17 February 2017, the gathering of 3,000 people in Minsk marked the largest protest rally in Belarus since 2011. More than 900 people were subjected to various forms of repression, including criminal prosecution, according to Human Rights Center “Viasna”.

The most high-profile case involved charges brought by the authorities against 40 people in March 2017 over the alleged preparation of mass riots and the creation of an illegal armed formation.<sup>6</sup> Although by the end of 2017 all the defendants in the case had been released, it had an extremely negative impact on the overall human rights situation. A similar situation occurred in 2018 during mass events held to mark the 100th anniversary of the declaration of the Belarusian People’s Republic, when around 120 people were detained in various cities around the country.<sup>7</sup>

In August 2017, the authorities searched the offices of the independent Radio and Electronics Industry Workers trade union (REP), which had actively supported the protests against the “idleness decree”. A criminal case was filed against the leader of the REP, Gennady Fedynich, and the REP’s chief accountant, Igor Komlik, over alleged large-scale tax evasion. Komlik was arrested and imprisoned until October 2017. Belarusian and international human rights activists recognised the persecution of the union as politically motivated and called for the case to be dismissed. However, the authorities went ahead, and the court case began in July 2018.<sup>8</sup>

On 24 August 2018, Fedynich and Komlik were sentenced to four years of “restricted freedom” – a suspended custodial sentence with parole-like restrictions.<sup>9</sup> An appeal hearing began on 9 November 2018.

During 2018, there were two political prisoners in Belarus: Mikhail Zhemchuzhny, recognised as

6 Ibid

7 *Human Rights Situation in Belarus, March 2018*, Human Rights Center “Viasna”, April 2018, <http://spring96.org/en/news/89586>

8 *Human Rights Situation in Belarus in 2017. Analytical Review*, Human Rights Center “Viasna”, 15 January 2018, <http://spring96.org/en/news/88849>

9 *Belarusian Union Leaders Sentenced to Four Years Of ‘Restricted Freedom’*, Radio Free Europe/Radio Liberty, 24 August 2018, <https://www.rferl.org/a/belarusian-union-leaders-fyadynich-komlik-sentenced-four-years-of-restricted-freedom-/29451501.html>

a political prisoner by Belarusian human rights organisations, and Dmitry Polienko, recognised as a prisoner of conscience by Amnesty International.<sup>10</sup> Dmitry Polienko was released in October 2018.<sup>11</sup> The death penalty remains in place as a criminal punishment. In 2017, three death sentences were pronounced, and one was carried out.<sup>12</sup>

Journalists working for independent media were under constant pressure in 2017. The Belarusian Association of Journalists identified 69 cases where penalties were used against freelance journalists in connection with their professional activities in 2017.<sup>13</sup> In addition, the authorities were repeatedly expanding restrictions on the work of the media on the internet. At the end of 2017, the Ministry of Information blocked access to the independent information resource *Belarusian Partisan* ([belaruspartisan.org](http://belaruspartisan.org)), and in early 2018 blocked the opposition website *Charter 97* ([charter97.org](http://charter97.org)).<sup>14</sup>

In June 2018, authorities filed a criminal case against Ales Lipay, the owner of the independent news agency BelaPAN, accusing him of failing to make tax payments.

In early 2018, amendments were made to the law on mass media, significantly expanding the scope for state control over internet resources. In particular, the amendments introduced a complicated procedure for registering Internet resources. The amendments deprived unregistered news sites of the status of media, extrajudicial orders could subsequently be used to block websites, and further requirements were introduced for the owners of internet resources, such as the obligation to identify individuals who post comments on their pages.<sup>15</sup>

10 List of Political Prisoners, Human Rights Center “Viasna”, <http://spring96.org/be/news/49510>

11 *Минус один: на свободу вышел политзаключенный Дмитрий Полиенко (Minus One: Political Prisoner Dmitry Polienko was Released)*, Human Rights Center “Viasna”, 24 October 2018, <http://spring96.org/ru/news/91176>

12 *Human Rights Situation in Belarus in 2017. Analytical Review*, Human Rights Center “Viasna”, 15 January 2018, <http://spring96.org/en/news/88849>

13 *CMI ў Беларусі ў 2017 годзе (Mass Media in Belarus in 2017)*, Belarusian Association of Journalists, 3 May 2018, <https://baj.by/be/analytics/smi-u-belarusi-u-2017-godze>

14 *CMI ў Беларусі № 2 (55). Студзень — чэрвень 2018 (Mass Media in Belarus No.2 (55). January - June 2018)*, Belarusian Association of Journalists, 10 August 2018, <https://baj.by/be/analytics/smi-u-belarusi-no-2-55-studzen-cherven-2018>

15 Ibid

In early August 2018, the Belarus Investigative Committee instituted criminal proceedings against journalists and editors of a number of periodicals and Internet resources for alleged unauthorised access to computer information: those targeted included the editors of the publishing house Culture and Art, the companies Realt.By, ITV, the publishing house, Belorusskaya Nauka, BelaPAN and the most popular news portal in the country, TUT.by. The basis for the initiation of the case was a statement by the state news agency BELTA about unauthorised access to its paid subscription services.

The investigation was accompanied by the arrests of journalists and editors, searches of editorial offices, and seizure of equipment.<sup>16</sup> The

<sup>16</sup> *Сцiсла пра “справу БЕЛТА”: спісы затрыманых і факты, Report on “BELTA Case”: List of Detainees and Facts, Belarusian Association of Journalists, 10 August 2018,*

actions of the law enforcement agencies were “clearly aimed at silencing Belarus’s beleaguered independent media”, according to ARTICLE 19.

## MINSK SEEKS ‘BALANCING’ ROLE, BUT PARTNERSHIP PRIORITIES WITH EU REMAIN ELUSIVE

Despite the ongoing human rights shortcomings, the overall development of Belarus-EU co-operation did not change. The parties continued to support the formats of communication begun after the renewal of relations in 2015-2016. Two rounds of the resumed Human Rights Dialogue (July 2017,

<https://baj.by/be/content/scisla-pra-spravu-belta-spisy-zatrymanyh-i-fakty>

## Public Consultations: Need to Move from ‘Formal’ to ‘Substantive’ Engagement

During 2017 and early 2018, a number of amendments were initiated to existing legislation on freedom of association and the activities of civil society organisations (CSOs), including amendments to the Law on Public Gatherings, legislation on foreign aid and sponsor support, prospects for decriminalisation of activities on behalf of unregistered organisations and the abolition of Article 193-1 of the Criminal Code, which established criminal liability for the activities of unregistered CSOs. These amendments did not significantly change the conditions governing the activities of civil society, and the restrictive application of legislation remained in force.<sup>17 18</sup>

A positive trend continued with the expansion of the interaction between state bodies and CSOs, including on legislative initiatives. CSOs participated in consultations on the implementation of the Inter-Agency Human Rights Plan, the National Action Plan for Gender Equality, the National Action Plan for the Implementation of the Convention on the Rights of Persons with Disabilities, the National Plan of Action for the Advancement of Children and the Protection of their Rights, events of the Belarus-EU and Belarus-US Human Rights Dialogue, and meetings of the Belarus-EU Co-ordination Group.<sup>19</sup>

<sup>17</sup> *Свобода асацыяцый і прававое становленне некамерцескіх арганізацый у Беларусі. Агляд за 2017 год (дапоўненая версія) (Freedom of Association and the Legal Status of Non-Profit Organisations in Belarus. Review for 2018 (updated version)), Legal Transformation Center (Lawtrend) and Assembly of Pro-Democratic NGOs, 2018, <http://www.lawtrend.org/freedom-of-association/opublikovan-obzor-svobody-assotsiatsij-2017-goda>*

<sup>18</sup> On 20 December 2018, the House of Representatives approved at the second reading a draft bill amending the Criminal Code, aimed to decriminalise membership and leadership of unregistered CSOs. The law remained subject to signature of the President. However, the criminal liability is likely to be replaced with administrative responsibility punishable by prohibitively heavy fines. Article 193.1 of the Criminal Code Repealed in Second Reading, Viasna, 20 December 2018, <http://spring96.org/ru/news/91680>

<sup>19</sup> Ibid

The participation of Oleg Kravchenko, the Deputy Foreign Minister, at the annual Assembly of the Eastern Partnership Civil Society Forum in Tallinn, Estonia, in October 2017, was particularly noteworthy, not least since the representatives of the Belarusian authorities had never participated before in the events of the EaP CSF.

Despite the undoubtedly positive aspect of the preservation and development of various formats of the dialogue between the state and civil society, representatives of civil society note that in general, these plans provide for the participation of NGOs in events “only formally or in a passive capacity”. The general public “can react to the proposals of the authorities, take part in events at the invitation of state bodies”, but in most cases “this participation is episodic and fragmented, provides for the possibility of accentuation of problems by non-state actors, but is not a real participation in the planned activities”.<sup>20</sup>

An exception to this rule is the participation of leading business associations in public consultative councils under practically all ministries and departments. Business associations managed to secure balanced representation in the composition of the public councils, so that they now comprise 50% government officials and 50% representatives of business associations. To date, business associations have been actively involved in the development of legislation in their field, including the package of measures to improve business conditions adopted in 2017 (Presidential Decree No. 7 “On the Development of Entrepreneurship” and No. 8 “On the Development of the Digital Economy”), the formation of plans for the development of small and medium-sized businesses, and the development of proposals for the formation of the Strategy for the Development of Entrepreneurship in Belarus until 2030.<sup>21</sup>

<sup>20</sup> Ibid

<sup>21</sup> For example, *Совет предлагает активизировать работу и повысить роль ОКК (The Council Proposes to Intensify the Work and Enhance the Role of Public Consultative Councils)*, Council for the Development of Entrepreneurship under the President of the Republic of Belarus, 19 February 2017, <http://ced.by/ru/news/pressreleases/~shownews/2018-02-19-predlozhenia-oks>



July 2018)<sup>22</sup> and three meetings of the Belarus-EU Co-ordinating Group (in April and December 2017, and also in April 2018)<sup>23</sup> were held.

Both communication platforms provide for the participation of representatives of CSOs. In addition, work continued in the format of sectoral dialogues: on trade, customs, ecology, economy and finance, and transport.<sup>24</sup>

Belarus continued to participate in the multilateral component of the Eastern Partnership and its thematic platforms. Foreign Minister Vladimir Makei attended the Eastern Partnership Summit in Brussels on 24 November 2017, and in June 2018 the informal dialogue of the Eastern Partnership Foreign Ministers took place in Minsk with the participation of European Commissioner for European Neighbourhood Policy and Enlargement Negotiations Johannes Hahn and Deputy Secretary General of the European External Action Service Jean-Christophe Belliard.<sup>25</sup>

The Belarusian authorities derive various symbolic and practical benefits from the arrangement. International forums, such as the parliamentary Assembly of the OSCE held in Minsk in July 2017, the Minsk Forum with the participation of the German Foreign Minister, the chairmanship of Belarus in the Central European initiative in 2017, the visits of high-ranking European politicians and officials, and broad expert platforms (Minsk Dialogue) serve to demonstrate the openness of Belarus, and to soften the rhetoric of international organisations on human rights violations.<sup>26</sup>

22 5th round of EU-Belarus Human Rights Dialogue Takes Place in Minsk, Delegation of the EU to Belarus, 1 July 2018, [https://eeas.europa.eu/delegations/belarus/48572/5th-round-eu-belarus-human-rights-dialogue-takes-place-minsk\\_en](https://eeas.europa.eu/delegations/belarus/48572/5th-round-eu-belarus-human-rights-dialogue-takes-place-minsk_en)

23 EU-Belarus Co-ordination Group to meet in Belarus, Delegation of the EU to Belarus, 24 April 2018, [https://eeas.europa.eu/delegations/belarus/43428/eu-belarus-coordination-group-meet-belarus\\_en](https://eeas.europa.eu/delegations/belarus/43428/eu-belarus-coordination-group-meet-belarus_en)

24 *Европейский союз (European Union)*, Ministry of Foreign Affairs of Belarus, 2018, <http://mfa.gov.by/multilateral/organization/list/c723f8823e56d467.html>

25 10th Eastern Partnership Informal Ministerial Dialogue, Ministry of Foreign Affairs of Belarus, 22 June 2018, [http://mfa.gov.by/en/press/news\\_mfa/e3c601a28dc3d076.html](http://mfa.gov.by/en/press/news_mfa/e3c601a28dc3d076.html)

26 *Резолюция с критикой Беларуси не вошла в итоговую декларацию сессии ПА ОБСЕ (A Resolution Critical of Belarus was not Included in the Final Declaration of the Session of the OSCE Parliamentary Assembly)*, TUT.BY, 9 July 2017, <https://news.tut.by/economics/550571.html>

The government is able within this context to pursue a distinct foreign policy role in promoting such initiatives as “integration of integrations”, the new Helsinki process for restoring relations between East and West, emphasizing the position of Belarus as a “provider of stability” in the region, and advocating a pragmatic approach to co-operation based on economic and infrastructural projects. Belarus is also actively expanding the geography of diplomatic contacts with various EU countries, including the invitation of the Belarusian president to pay an official visit to Austria in the second half of 2018 during Austria’s Presidency of the EU Council.<sup>27</sup>

Belarus lacks a sustained dialogue with the EU on security issues. The dialogue is mostly limited to an exchange of views because there is no common security agenda between Minsk and Brussels. There is neither a permanent dialogue at the level of the main governing structures of the two sides nor a systematic dialogue at the level of the competent departments – largely due to the fact that most EU countries are members of NATO, which opposes the deepening of co-operation and dialogue between the Alliance and Minsk.

The State Border Committee has the most extensive contacts with EU bodies within the framework of EU technical and financial assistance programmes in the field of border security, although the most important border security issues are resolved at the bilateral level with the neighbouring EU countries.

Co-operation with the EU brings not only symbolic benefits to Belarus, but also quite concrete economic results. In recent years, the European Investment Bank (EIB) has expanded its activities to Belarus, and the European Bank for Reconstruction and Development (EBRD) has significantly increased its operations in Belarus.

A framework agreement on co-operation between the EIB and Belarus was signed in May 2017,<sup>28</sup> and the EIB plans to invest around €110

27 *Лукашенко обсудил с канцлером Австрии Курцем развитие сотрудничества и продолжение контактов (Lukashenko and Austrian Chancellor Kurz Discussed Development of Co-operation and Continued Contacts)*, BELTA, 29 May 2018, <http://www.belta.by/president/view/lukashenko-obsudil-s-kantslerom-avstrii-kurtsem-razvitie-sotrudnichestva-i-prodolzhenie-kontaktov-304645-2018/>

28 *EIB Open to Finance Infrastructure and Private Sector Projects in Belarus*, EIB, 27 October 2017, <http://www.eib>

million to finance the reconstruction of the highway between Minsk and the Polish border. Further support is planned for the development of border infrastructure between Belarus and Lithuania.<sup>29</sup>

In 2017, the EBRD increased the volume of its operations in Belarus to €163 million, and intends to bring it to the “pre-crisis level” of €250 million.<sup>30</sup> Belarus also receives TAIEX funding – the project is aimed at facilitating Belarus’s accession to the World Trade Organization (WTO)<sup>31</sup> – and the first Twinning project (supporting the capacity of the National Bank of the Republic of Belarus “to address the major challenges as an independent central bank”)<sup>32</sup>.

While at the first glance the dynamics of EU-Belarusian relations look positive, a closer examination shows the persistence of significant problems. All the actions taken serve mainly to maintain diplomatic communication formats, and to deploy EU assistance for economic and infrastructure projects without moving into the plane of concrete changes in Belarus.

The development of a contractual framework for bilateral relations between Belarus and the EU is currently based on the signing of partnership priorities that define strategic areas of co-operation with the non-associated countries of the Eastern Partnership.

The possibility of signing partnership priorities was discussed on the eve of the Eastern Partnership Summit in November 2017, but the

[org/en/infocentre/press/releases/all/2017/2017-291-eib-open-to-finance-infrastructure-and-private-sector-projects-in-belarus.htm](http://org/en/infocentre/press/releases/all/2017/2017-291-eib-open-to-finance-infrastructure-and-private-sector-projects-in-belarus.htm)

*29 ЕИБ одобрил выделение денег на свой первый проект в Беларуси (EIB Approves Allocation of Money for its First Project in Belarus)*, Myfin.by, 13 December 2017, <https://myfin.by/stati/view/9931-eib-odobril-vydelenie-deneg-na-soj-pervyj-proekt-v-belarusi>

*30 ЕБРР планирует в 2018 году увеличить объем финансирования проектов в Беларуси (EBRD Plans to Increase Funding for Projects in Belarus in 2018)*, BELTA, 24 January 2018, <http://www.belta.by/economics/view/ebr-planet-v-2018-godu-uvelichit-objem-finansirovaniya-proektov-v-belarusi-285952-2018/>

*31 EU Projects with Belarus*, Delegation of the EU to Belarus, 4 December 2017, [https://eeas.europa.eu/delegations/belarus\\_en/947/EU%20Projects%20with%20Belarus;TAIEX \(Technical Assistance and Information Exchange Instrument\) and Twinning](https://eeas.europa.eu/delegations/belarus_en/947/EU%20Projects%20with%20Belarus;TAIEX%20(Technical%20Assistance%20and%20Information%20Exchange%20Instrument)%20and%20Twinning)

*32 EU Supports Belarus' Central Bank via 1st TWINNING Project in the Country*, European Commission, 22 December 2017, [https://ec.europa.eu/neighbourhood-enlargement/news\\_corner/news/eu-supports-belarus-central-bank-1st-twinning-project-country\\_en](https://ec.europa.eu/neighbourhood-enlargement/news_corner/news/eu-supports-belarus-central-bank-1st-twinning-project-country_en)

parties did not reach a final agreement.<sup>33</sup> At the official level, the nature of the contradictions is not disclosed, but at the informal level official Minsk is mainstreaming the narrative that the obstacle to signing the partnership priorities is Lithuania’s position on the Astravets nuclear power plant being built in Belarus, 45 kilometres from the Lithuanian capital, Vilnius.

The premise is that Lithuania is insisting on the introduction of European safety standards for the plant, while the Belarusian side agrees only to the less stringent standards of the International Atomic Energy Agency.

The EU linked the issue of signing partnership priorities with the introduction of the Belarus Single Support Framework 2017-2020, and the decision of the European Commission to allocate Belarus €29 million of aid from the EU budget in 2017<sup>34</sup> will come into effect only after the approval of the Single Support Framework.<sup>35</sup>

This means that the lack of progress in signing partnership priorities calls into question the launch of the approved projects, EU Good Governance Programme in Belarus, and Support to Business and Economic Development in Belarus, each of which is backed by EU aid of €14.5 million.<sup>36</sup>

*33 Makei to Head Belarusian Delegation at EaP Summit in Brussels*, BELTA, 21 November 2017, <http://eng.belta.by/politics/view/makei-to-head-belarus-delegation-at-eap-summit-in-brussels-106920-2017>

*34 Commission Implementing Decision of 12 December 2017 on the Annual Action Programme 2017 in Favour of the Republic of Belarus to be Financed from the General Budget of the European Union*, European Commission, Brussels, 12 December 2017, C(2017) 8655 final, [https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/eni\\_2017\\_c20178655\\_annual\\_action\\_programme\\_for\\_belarus.pdf](https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/eni_2017_c20178655_annual_action_programme_for_belarus.pdf)

*35 For example, “Pending the Approval of the Single Support Framework 2017-2020” in Annex I to Commission Implementing Decision on the Annual Action Programme 2017 in Favour of the Republic of Belarus to be Financed from the General Budget of the EU*, [https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/eni\\_2017\\_040284\\_eu\\_good\\_governance\\_programme.pdf](https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/eni_2017_040284_eu_good_governance_programme.pdf)

*36 Commission Implementing Decision of 12 December 2017 on the Annual Action Programme 2017 in Favour of the Republic of Belarus to be Financed from the General Budget of the European Union*, European Commission, Brussels, 12 December 2017, C(2017) 8655 final, [https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/eni\\_2017\\_c20178655\\_annual\\_action\\_programme\\_for\\_belarus.pdf](https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/eni_2017_c20178655_annual_action_programme_for_belarus.pdf)



## TRADE INCREASES, BUT MARKET ACCESS LIMITED WITHOUT ACCEPTING EU STANDARDS

The EU is the second largest trade partner of Belarus. In 2017, the EU share in the total trade turnover amounted to 22.9% (or €12.8 billion). Compared with 2016, the level of Belarusian exports to the EU increased by 15%, and EU exports to Belarus increased by 21.7%.<sup>37</sup> The mainstay of Belarusian exports to the EU is mineral fuel, and to a lesser extent chemicals, agricultural products, machinery and textiles.<sup>38</sup>

Belarus's ambitions to increase exports to the EU, in terms of both industrial and agricultural products, were hampered by the need to certify products according to EU standards and to meet sanitary and phytosanitary control requirements.

Dialogue has made little headway: the EU insists on the need for formal adaptation of all standards to secure admission to the EU market, while Belarus wants a tailored agreement. In particular, the Ministry of Agriculture has accused the EU of bureaucratic delays and foot dragging in negotiations on the possibility of the export of meat supplies to the EU or the transit of products through the port of Klaipeda in Lithuania.

The EU argues, in turn, that Belarus must sign the necessary international documents and formally adopt the relevant standards before greater market access becomes possible.<sup>39</sup>

Belarus's accession to the WTO could significantly speed up and simplify the process of access of Belarusian goods to the EU market, but there has not been much progress in this area to date. Despite the declarations of the Belarusian authorities of the ambition to enter the WTO and the provision of assistance from the EU, including through the TAIEX programme, Belarus is at best at the halfway stage.

<sup>37</sup> European Union, *Trade in Goods with Belarus*, European Commission, 16 April 2018, [http://trade.ec.europa.eu/doclib/docs/2006/september/tradoc\\_113351.pdf](http://trade.ec.europa.eu/doclib/docs/2006/september/tradoc_113351.pdf)

<sup>38</sup> Belarus. *Trade Picture*, European Commission, 16 April 2018, <http://ec.europa.eu/trade/policy/countries-and-regions/countries/belarus/>

<sup>39</sup> Координационная группа «Беларусь-ЕС»: как это было. *Наше мнение* ('Belarus-EU': Co-ordination Group: As It Was), Denis Meliantsov in Our Opinion, 22 December 2017, <http://nmnby.eu/news/analytics/6509.html>

## Visa Facilitation: Whose Double Standards?

Despite the negotiations on visa facilitation and readmission agreements since 2014, the state of readiness of the parties to sign the agreements has not been clearly spelled out.

On the one hand, it is stated that "good progress was made, in particular on the future Readmission Agreement".<sup>40</sup>

On the other hand, officials refrain from detailed comments on the outstanding obstacles to signing the treaties. From the piecemeal information available, it can be concluded that the parties have still not reached an agreement on the provision of certain aspects of the visa facilitation agreement (the right for all EU countries to introduce visa centres, the (biometric) security of Belarusian diplomatic passports, the possibility of suspension of the agreement in the event of EU sanctions against Belarus due to human rights violations).

The Belarusian side insists that the EU has stipulated a number of requirements that other countries did not have to meet in reaching similar agreements, and considers this a discriminatory approach towards Belarus.<sup>41</sup> In particular, the Belarusian authorities take issue with the stipulation that in case of severe human rights violations the EU would be able to unilaterally suspend the visa-free regime for diplomatic passports.

Thus, in their negotiations with the EU, the Belarusian authorities have given greater priority to a visa-free regime for holders of diplomatic passports over reaching an agreement that would enable all Belarusian citizens to enjoy a decrease of €25 in the price of visas and on the introduction of a visa-free regime for particular categories of population (such as students, artists, and athletes).

<sup>40</sup> *Visa Policy: Commission Invited Belarus for the Next Round of Negotiations on Visa Facilitation and Readmission*, European External Action Service, 27 July 2018, [https://eeas.europa.eu/headquarters/headquarters-homepage/48923/visa-policy-commission-invited-belarus-next-round-negotiations-visa-facilitation-and\\_en](https://eeas.europa.eu/headquarters/headquarters-homepage/48923/visa-policy-commission-invited-belarus-next-round-negotiations-visa-facilitation-and_en)

<sup>41</sup> *МИД об упрощении визового режима: Брюссель ставит неравные условия* (Ministry of Foreign Affairs on the visa Facilitation Regime: Brussels Sets Double Standards), Sputnik, 21 June 2018, <https://sputnik.by/politics/20180621/1036155854/peregovory-uproschenie-vizovogo-rezhima-zatyanulis.html>

The working group on Belarus's accession to the WTO noted that the process is proceeding at a normal pace, but there are many outstanding questions, "including its investment regime, state ownership, state trading and privatisation, pricing and competition policies, import and export regulations, customs valuation, technical barriers to trade, sanitary and phytosanitary measures, and intellectual property rights".<sup>42</sup>

<sup>42</sup> *Members Show Sustained Engagement in Belarus Accession Process*, WTO, 15 May 2018, [https://www.wto.org/english/news\\_e/news18\\_e/acc\\_blr\\_15may18\\_e.htm](https://www.wto.org/english/news_e/news18_e/acc_blr_15may18_e.htm)

Another problematic process in the field of sectoral co-operation remains Belarus's admission to the Bologna process. In 2015, Belarus was admitted to the European Higher Education Area, subject to conditions for the implementation of a road map of reforms by 2018. However, according to the EHEA report on implementation of the road map, Belarus had not fulfilled its main obligations.<sup>43</sup>

On 25 May 2018, the Conference of Education Ministers of the EHEA member states adopted the decision to preserve Belarus among the participants in the Bologna Process, but noted the existence of "significant problems" in the field of higher education reforms. To address these problems, European education ministers proposed a new strategy for 2018-2020, which in fact meant extending the main provisions of the roadmap for the new period.<sup>44</sup>

Belarus has co-operated with the EU on the issue of nuclear power safety, which is particularly important in connection with the construction of the Astravets nuclear power plant near the border with the EU. Belarus completed the stress tests for the plant in June 2018,<sup>45</sup> the results of which were generally positive in the opinion of experts from the European Nuclear Safety Regulators Group (ENSREG).<sup>46</sup> At the same time, ENSREG made three groups of recommendations regarding the site's resilience to extreme natural disasters such as earthquakes, flooding and extreme weather hazards; the capacity of the plant to respond to electric power outages; and severe accident management.

43 *Support for the Belarus Road Map, Final Report, Workplan 2015-2018*, by Frank Petrikowski and Friedrich Becina, Advisory Group 2, European Higher Education Area and Bologna Process, [http://ehea.info/media.ehea.info/file/2018\\_Paris/72/3/MEN\\_conf-EHEA\\_AG2\\_03\\_950723.pdf](http://ehea.info/media.ehea.info/file/2018_Paris/72/3/MEN_conf-EHEA_AG2_03_950723.pdf)

44 *Беларусь осталась в Болонском процессе. Но вновь с условиями* (Belarus Remained in the Bologna Process. But Again with Conditions), 28 May 2018. TUT.BY, <https://news.tut.by/society/594366.html>

45 EU Peer Review Report of the Belarus Stress Tests, European Nuclear Safety Regulators Group (ENSREG), June 2018, [http://ensreg.eu/sites/default/files/attachments/hlg\\_p2018-36\\_155\\_belarus\\_stress\\_test\\_peer\\_review\\_report\\_0.pdf](http://ensreg.eu/sites/default/files/attachments/hlg_p2018-36_155_belarus_stress_test_peer_review_report_0.pdf); See also: *Comprehensive Risk and Safety Assessments (Stress Tests) of the Belarusian Nuclear Power Plant*, joint press release, ENSREG – Gozatomnadzor, Brussels, 4 July 2018, [http://www.ensreg.eu/sites/default/files/attachments/joint\\_press\\_release\\_4\\_july\\_2018.pdf](http://www.ensreg.eu/sites/default/files/attachments/joint_press_release_4_july_2018.pdf)

46 *EU Nuclear Inquest Approves Belarusian Atom-Smashing*, EURACTIV, 3 July, 2018, <https://www.euractiv.com/section/europe-s-east/news/eu-inquest-approves-belarusian-atom-smashing/>

Formally, the recommendations are not binding on the Belarusian side, but not all EU countries share this approach. According to Lithuanian Foreign Minister Linus Linkevičius, "the critical test is provided in the EU. The NPP [nuclear power plant] is launched. The implementation of the recommendations should be conditional for further EU-Belarus co-operation. We expect that the European Commission will remain involved in the process and will keep control of it."<sup>47</sup>

Lithuania's tough position, which made the implementation of the recommendations on the nuclear power plant a condition for further development of EU relations with Belarus, drawing a negative response from the Belarusian side, and further stalling the development of political co-operation and the prospects for agreement on partnership priorities.

The "apolitical" qualities of sustainable development have served Belarus as a tool – even a political tool – for expanding the horizons of the government in the international arena.

The institute of the National Co-ordinator for Achieving the SDGs and the Council on Sustainable Development were established in Belarus, and the former Minister of Social Development – the current Deputy Chair of the Council of the Republic (the Upper House in the parliament), Marianna Shchetkina – was appointed to this position. Shchetkina represented Belarus in the framework of the UN Summit on Sustainable Development in New York in 2017, and hosted the Forum of SDG co-ordinators in Minsk, through which Belarus initiated the creation of a partnership network of SDG co-ordinators (the initiative will be supported by the UN).

Currently, work is underway to update the National Sustainable Development Strategy and harmonise it with the SDGs, but the process has not been a transparent one. Only selective pro-government civil society organisations were invited to join the process, and the procedure for interaction with the Council on Sustainable Development and the wider framework for public participation is unclear.

47 L[Linus]. Linkevičius: *The EU Stress Tests Proved that the Astravets NPP is Not Safe*, Ministry of Foreign Affairs of Lithuania, 3 July 2018, <https://jp.mfa.lt/default/en/news/linkevicius-the-eu-stress-tests-proved-that-the-ostrovets-npp-is-not-safe>

From this perspective, Belarus effectively uses its active position on the SDGs to improve its “international image”, but it does not create the prerequisites for a broad and inclusive discussion of the new National Sustainable Development Strategy. Without such inclusion, neither the quality of the strategy nor society’s support for it can be guaranteed.

## ECONOMIC CONCERNS TOP LIST OF MOST PRESSING PROBLEMS FACING CITIZENS

In January 2017, Belarus introduced a visa-free regime for a period not exceeding five days for citizens of 80 countries, including all EU countries, when arriving at Minsk National Airport (the visa-free regime did not apply for flights from Russia, however).<sup>48</sup>

According to the State Department of Tourism, the visa-free regime resulted in a 20% increase in the number of tourists.<sup>49</sup> Russia – which had border-free relations with Belarus – reacted negatively to this step, restored the passport control regime and banned the crossing of the border between Russia and Belarus to third-country nationals.<sup>50</sup> Despite the occasional turbulence in relations with Russia, in July 2018 Belarus extended the length of visa-free stays to 30 days.<sup>51</sup>

The EU is limited in its scope for introducing reciprocal measures to simplify the visa regime since the visa facilitation and readmission agreements remain unsigned. At the same time, Belarus is one of the world leaders in terms of the number of Schengen visas received

48 Беларусь вводит пятидневный безвизовый режим для граждан 80 стран (Belarus Introduces a Five-Day Visa-Free Regime for Citizens of 80 Countries), Press Service of the President of Belarus, 9 January 2017, [http://president.gov.by/ru/news\\_ru/view/belarus-vvodit-pjatidnevnyj-bezvizovyj-rezhim-dlja-grazhdan-80-stran-15342/](http://president.gov.by/ru/news_ru/view/belarus-vvodit-pjatidnevnyj-bezvizovyj-rezhim-dlja-grazhdan-80-stran-15342/)

49 Безвизовый режим увеличил турпоток в Беларусь на 20% – Минспорт (The Visa-Free Regime Has Increased the Flow of Tourists to Belarus by 20% - Minsport [Ministry of Sport and Tourism]), BELTA, 25 July 2018, <http://www.belta.by/society/view/bezvizovyj-rezhim-velichil-turpotok-v-belarus-na-20-minsporta-311783-2018/>

50 Граница Беларуси и России: так есть ли там проблемы? (Border of Belarus and Russia: Are There Any Problems?), Sputnik, 8 February 2018, <https://sputnik.by/politics/20180208/1033513040/granica-belarusi-i-rossii-tak-est-li-tam-problemy.html>

51 Срок безвизового пребывания в Беларуси продлен до 30 дней (The Length of Visa-Free Stays in Belarus has been Extended to 30 Days), BELTA, 27 July 2018, <http://www.belta.by/president/view/srok-bezvizovogo-prebyvanija-v-belarusi-prodlen-do-30-dnej-311638-2018/>

(more than 710,000 visas in 2017), including multiple entry visas (more than 578,000 in 2017).<sup>52</sup> Belarus also participates in various EU programmes and projects aimed at supporting mobility and people-to-people contacts (including Erasmus+, Jean Monnet, EU4Youth). In 2017, in the framework of the Erasmus+ programme, 217 European students came to Belarus, and 421 students from Belarus were able to travel to study in EU countries.<sup>53</sup>

The MOST project (Mobility Scheme for Targeted People-to-People-Contacts), aimed at supporting short-term mobility and cultural exchanges, supported more than 1,927 visits of Belarusians to the EU, and Belarusian scientific organisations were active participants in the Horizon 2020 programme for research and innovation.<sup>54</sup>

Support for civil society and promotion of the improvement of living standards in general comprise a significant part of the political agenda of the EU in Belarus. In 2017, around €7.5 million was allocated by the EU to support civil society and local authorities in the framework of the thematic programmes of the European Instrument for Democracy and Human Rights (EIDHR) and the Non-State Actors and Local Authorities (NSA/LA) instrument.

In total, 23 Belarusian cities joined the EU Covenant of Mayors initiative, through which local authorities are eligible to receive support for projects to expand energy-efficiency measures, improve infrastructure, create jobs, and increase the effectiveness of economic management. The accession of Belarus in 2017 to the Eastern Europe Energy Efficiency and Environment Partnership (E5P) also allows the city authorities in Belarus to use loans from its trust fund for projects on energy efficiency and the environment.

According to the data from the EU Attitudes Survey conducted in 2017 by EU Neighbours

52 Schengen Visa Statistics by Third Country – 2017, SchengenVisaInfo.com, 10 April 2018, <https://www.schengenvisa.info.com/visa-statistics-third-country-2017/>

53 Международная кредитная мобильность и Совместные магистерские степени (Key Action 1): возможности для Беларуси (International Credit Mobility and Joint Master’s Degrees (Key Action 1): Opportunities for Belarus), Inna Mitskevich, Erasmus + Programme Office in Belarus, 2018, [http://erasmus-plus.belarus.unibel.by/sm\\_full.aspx?guid=11893](http://erasmus-plus.belarus.unibel.by/sm_full.aspx?guid=11893)

54 EU Projects with Belarus. Delegation of the EU to Belarus, 4 December 2017, [https://eeas.europa.eu/delegations/belarus\\_en/947/EU%20Projects%20with%20Belarus](https://eeas.europa.eu/delegations/belarus_en/947/EU%20Projects%20with%20Belarus)

East/ECORYS, of those Belarusian citizens aware of EU financial support to their country, citizens were fairly evenly split when asked how effective they thought the [EU financial] support had been. In the view of 47%, it had been effective; in the view of 49%, it had not been effective.<sup>55</sup> In the 2018 survey, 46% considered the support effective, while 48% still considered that it was not effective.<sup>56</sup>

Surveyed about the most pressing problems facing their country, Belarusians cited – as in the other Eastern Partnership countries – unemployment (61%) as one of the highest concerns. Economic concerns predominated, and the following four issues were all cited more often in Belarus than in any other Eastern Partnership country: low salaries/pensions (61%), economic crisis (47%), low living standards/poverty (41%), and high prices and taxes (36%).

In the 2018 survey, concerns about the economic crisis (cited by 34%) had abated, but concern at high prices and taxes had risen (cited as a pressing problem by 44%). Low salaries/pensions remained the most pressing problem (60%), followed by unemployment (55%). Low living standards/poverty was cited by 41%.

<sup>55</sup> *Annual Survey Report: Regional Overview, 2nd Wave (Spring 2017)*, OPEN Neighbourhood – Communicating for a Stronger Partnership: Connecting with Citizens Across the Eastern Neighbourhood, EU Neighbours East/ECORYS, June 2017, [https://www.euneighbours.eu/sites/default/files/publications/2017-10/EUNEIGHBOURSeast\\_AnnualSurvey2017report\\_EaP\\_OVERVIEW\\_0.pdf](https://www.euneighbours.eu/sites/default/files/publications/2017-10/EUNEIGHBOURSeast_AnnualSurvey2017report_EaP_OVERVIEW_0.pdf)

<sup>56</sup> *Annual Survey Report: Belarus. 3rd Wave (Spring 2018)*. OPEN Neighbourhood – Communicating for a Stronger Partnership: Connecting with Citizens Across the Eastern Neighbourhood, EU Neighbours East/ECORYS, June 2018, <https://www.euneighbours.eu/en/east/stay-informed/publications/opinion-survey-2018-belarus>

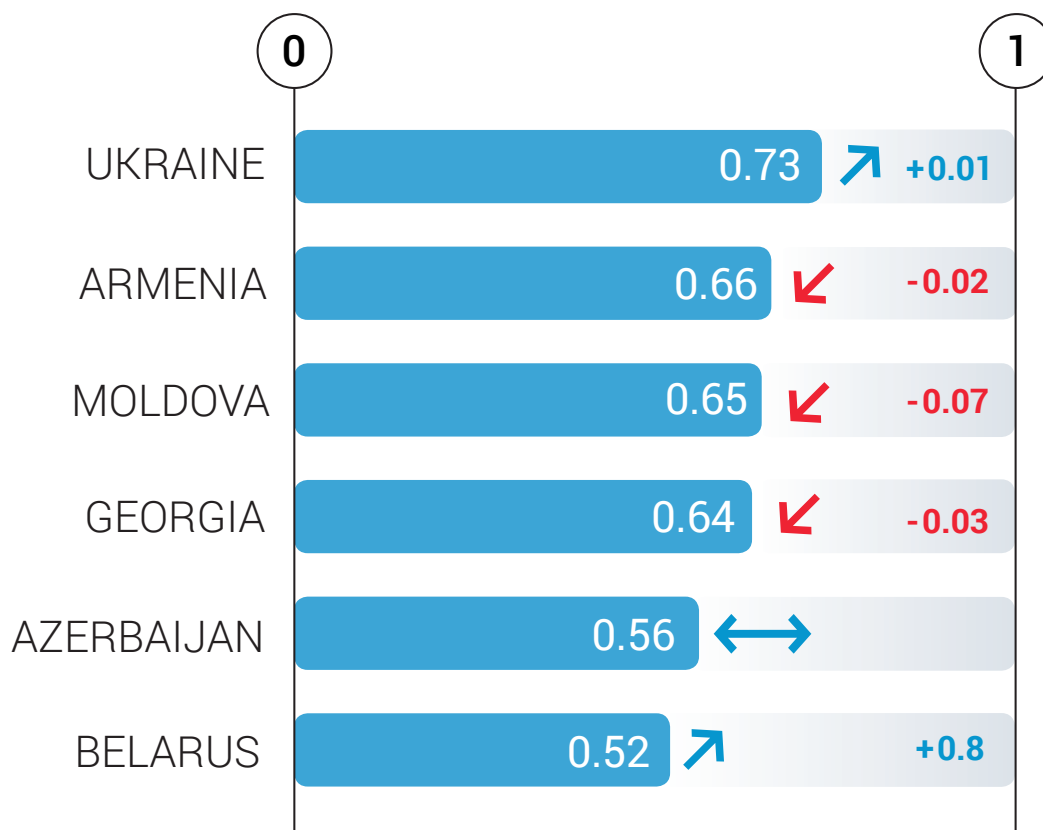




# SECTOR ASSESSMENTS



## APPROXIMATION DIMENSION



Approximation captures the extent to which EaP countries have implemented key EU norms and international standards. This dimension is divided into three sections:

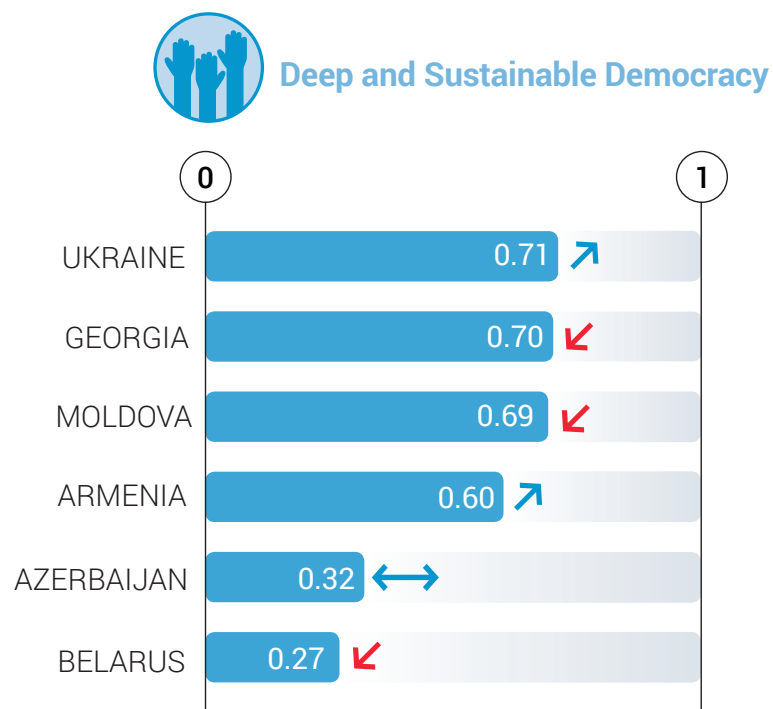
**DEEP AND SUSTAINABLE DEMOCRACY** – page 107 – measures the adoption and implementation of human rights and democratic principles that are defined by, among others, the European Convention on Human Rights, the Council of Europe, and the Organization for Security and Co-operation in Europe (OSCE), including the preceding Helsinki process.

**EU INTEGRATION AND CONVERGENCE** – page 119 – measures whether the EaP countries have converged with EU norms on trade, security, migration, energy, environment and transport infrastructures.

**SUSTAINABLE DEVELOPMENT** – page 125 – measures the sustainable development policies of the EaP countries and the extent to which they have achieved the sustainable development goals defined by the United Nations.



# DEEP AND SUSTAINABLE DEMOCRACY



Deep and Sustainable Democracy measures the adoption and implementation of human rights and democratic principles that are defined by, among others, the European Convention on Human Rights, the Council of Europe, and the Organization for Security and Co-operation in Europe (OSCE), including the preceding Helsinki process. The indicators contributing to the scores are:

- Democratic Rights and Elections, including Political Pluralism
- Human Rights and Protection Against Torture
- State Accountability
- Independent Media
- Freedom of Speech and Assembly
- Independent Judiciary
- Equal Opportunities and Non-Discrimination
- Fight Against Corruption
- Public Administration



## DEMOCRATIC RIGHTS AND ELECTIONS, INCLUDING POLITICAL PLURALISM

The elections held in Armenia on 2 April 2017 were the only parliamentary elections held in the EaP countries in 2017. Local elections took place in Georgia on 21 October 2017. Moldova, Ukraine, Azerbaijan and Belarus did not have elections in the reporting period.

In terms of the organisation of elections, electoral competitiveness and the legal framework governing elections, no major changes were observed in any of the EaP countries, although Ukraine registered a significant improvement in the legislative framework on the financial reporting of political parties.

While Georgia, Moldova and Ukraine remain the best performers in terms of ensuring free, fair, and transparent elections, the parliamentary elections in Armenia registered some improvement, according to the final report of the electoral mission of OSCE/ODIHR (Office for Democratic Institutions and Human Rights of the Organization for Security and Co-operation in Europe). However, credible information about vote-buying and pressure on civil servants tainted the election environment and contributed to an overall lack of public confidence in the elections.<sup>1</sup>

<sup>1</sup> Republic of Armenia Parliamentary Elections, 2 April 2017. ODIHR Election Observation Mission Final

### DEMOCRATIC RIGHTS AND ELECTIONS, INCLUDING POLITICAL PLURALISM

| RANK       | 2017 | 2015-16 |
|------------|------|---------|
| MOLDOVA    | 0.70 | 0.72    |
| GEORGIA    | 0.70 | 0.68    |
| UKRAINE    | 0.61 | 0.59    |
| ARMENIA    | 0.48 | 0.43    |
| BELARUS    | 0.18 | 0.15    |
| AZERBAIJAN | 0.16 | 0.06    |

Vote-buying remained a common problem across the EaP region, although it was not reported as a significant problem during the local elections in Georgia. While a legislative framework to prevent the abuse of administrative resources is in place in almost all EaP countries, the line between the ruling party and the state is usually blurred during election campaigns. Just as Moldova's legislative framework had been heavily criticised by the election observation mission to the presidential elections in October/November 2016 – noting “continued instances of abuse of administrative resources”<sup>2</sup> – the OSCE/ODIHR observation mission to the local elections in Georgia reported allegations of the misuse of administrative resources by the ruling party.<sup>3</sup>

Report, p. 2, 10 July 2017, <https://www.osce.org/odihr/328226?download=true>.

<sup>2</sup> Republic of Moldova Presidential Election, 30 October and 13 November 2016. OSCE/ODIHR Election Observation Mission Final Report, 15 February 2017, <https://www.osce.org/odihr/elections/moldova/300016?download=true>

<sup>3</sup> Georgia Local Elections, 21 October and 12 November 2017, OSCE/ODIHR Election Observation Mission Final Report,

## HUMAN RIGHTS AND PROTECTION AGAINST TORTURE

According to the definition elaborated by the Parliamentary Assembly of the Council of Europe (PACE), at least three EaP countries held political prisoners in the reporting period, namely Azerbaijan, Belarus and Armenia.

According to different reports, in Azerbaijan the number of political prisoners varied from 32<sup>4</sup> to 158<sup>5</sup>. Belarusian human rights organisations

p.12, 23 February 2018, <https://www.osce.org/odihr/elections/georgia/373600?download=true>.

<sup>4</sup> According to the Monitoring Group of Human Rights Organisations of Azerbaijan.

<sup>5</sup> Freedom in the World 2018, Azerbaijan Profile, Freedom House, <https://freedomhouse.org/report/freedom-world/2018/azerbaijan>.

### HUMAN RIGHTS AND PROTECTION AGAINST TORTURE

| RANK       | 2017 | 2015-16 |
|------------|------|---------|
| GEORGIA    | 0.68 | 0.72    |
| UKRAINE    | 0.65 | 0.77    |
| MOLDOVA    | 0.64 | 0.70    |
| ARMENIA    | 0.58 | 0.64    |
| AZERBAIJAN | 0.36 | 0.33    |
| BELARUS    | 0.06 | 0.05    |

also reported different lists, recognising several individuals as prisoners of conscience.<sup>6</sup>

While the Armenian authorities denied that there were political prisoners, according to the human rights NGOs there were political

<sup>6</sup> Belarus 2017 Human Rights Report, US Department of State, p. 11, <https://www.state.gov/documents/organization/277387.pdf>.

prisoners and detainees in the country before the Velvet Revolution of May 2018.<sup>7</sup> “Selective justice” was noted as a growing problem in Moldova. Criminal cases initiated against the leader of one of the opposition parties and a number of other criminal prosecutions prompted concerns about political influence over the justice sector.<sup>8</sup>

In the reporting period, three death sentences were pronounced in Belarus and one death penalty was carried out. Belarus is the only country in Europe where the death penalty still exists. Torture and ill treatment of detainees and prisoners were reported in all EaP countries, albeit of varying gravity and scale.

In order to address concerns about the impunity of law enforcement bodies, Ukraine and Armenia have mechanisms outside the law-enforcement system to investigate cases of torture committed by law enforcers; however, their independence and effectiveness have been limited. The draft law initiated by the Georgian government to establish a mechanism for the investigation of human rights violations committed by law enforcement officials faced harsh criticism from Georgian NGOs for its lack of independence and limited investigative functions.

<sup>7</sup> *Armenia 2017 Human Rights Report*, US Department of State, p. 13, <https://www.state.gov/documents/organization/277381.pdf>.

<sup>8</sup> *Moldova 2017 Human Rights Report*, US Department of State, p. 10, <https://www.state.gov/documents/organization/277439.pdf>.

In terms of legal framework and ratification of international legal instruments, Georgia, Ukraine and Moldova were the leaders among the six countries since Moldova improved its score after an effectively functioning National Preventive Mechanism (NPM) became fully operational in the reporting period (in line with the Optional Protocol to the UN Convention against Torture (OPCAT) criteria). Belarus did not advance in ratification of international human rights treaties, thus trailing behind Azerbaijan as the worst performing country.

Azerbaijan, despite being a member of the Council of Europe, failed to comply with the decision of the European Court of Human Rights, leaving Ilgar Mammadov, leader of the Republican Alternative Movement, behind bars on politically motivated charges at the end of 2017.<sup>9</sup> (Mammadov was released on 13 August 2018.)

Execution of the final judgements of the European Court of Human Rights has not been satisfactory in any of the EaP countries. While the authorities in Georgia, Armenia, Moldova and Ukraine generally paid compensation to applicants in line with the court’s judgements, they failed to implement other actions stipulated by the court’s decisions.

<sup>9</sup> *Freedom in the World 2018, Azerbaijan Profile*, Freedom House, <https://freedomhouse.org/report/freedom-world/2018/azerbaijan>.

## STATE ACCOUNTABILITY

Compared with the reporting period of the previous Index, Moldova’s score in terms of ensuring the accountability of its institutions deteriorated. Accordingly, Moldova slipped from first to third place in State Accountability, falling behind Georgia and Ukraine. Moldova’s scores worsened in terms of transparent budgeting, and parliamentary and civil society oversight, while the scores of Ukraine concerning the legislature’s institutional autonomy and capacity increased significantly.

Legislators in Ukraine, Moldova, Georgia and Armenia had the power to conduct

| STATE ACCOUNTABILITY |      |   |         |
|----------------------|------|---|---------|
| RANK                 | 2017 |   | 2015-16 |
| GEORGIA              | 0.86 | ↗ | 0.74    |
| UKRAINE              | 0.85 | ↗ | 0.74    |
| MOLDOVA              | 0.79 | ↘ | 0.82    |
| ARMENIA              | 0.72 | ↗ | 0.66    |
| AZERBAIJAN           | 0.34 | ↘ | 0.45    |
| BELARUS              | 0.29 | ↘ | 0.40    |

independent investigations into cases of abuse of power by executive institutions or officials through standing parliamentary committees or temporary investigative commissions. However, the operating procedures of the temporary investigative commissions were not clear in Armenia.

In 2017, three special investigation commissions were created in the Ukrainian parliament: 1) a temporary commission investigating the circumstances of the conflict in Zakarpatska oblast; 2) a temporary investigation commission on technical expertise of the construction and the efficiency of the usage of the budget during the construction of bridges over the Dnipro river in Zaporizhzhya city and 3) on checking the facts of violations during the election of the mayor of Kryvyi Rih on 15 November 2015.

On 6 June 2018, after the Index reporting period, the parliament of Georgia also agreed to create a temporary investigative commission to investigate the murder of two schoolchildren following massive protests in the capital Tbilisi.

The Belarusian National Assembly lacks the power to initiate an investigation against the prime minister or members of the government. According to the legislation, the parliament can make a decision only to start an investigation against the President in case of treason or another particularly serious crime.

From the standpoint of parliamentary oversight, Azerbaijan remained the worst performer in the reporting period as its parliament lacked institutional powers to independently investigate cases of misconduct by the executive branch.

While Moldovan, Ukrainian, Georgian and Armenian parliaments could formally control the activities of law enforcement bodies via general mechanisms of parliamentary oversight, the effectiveness of such control is limited.

Although the parliaments of all six EaP countries have formal rights to vote no confidence in their respective governments, these rights are limited in practice. In Belarus, the President can intervene by dissolving the parliament. In Azerbaijan, the President may dissolve the parliament when the latter fails to perform its duties, including in the sphere of law-making. This vague provision allows the President to dissolve the parliament at any time.

The parliamentarians of all six countries can theoretically override presidential vetoes. While this might look illusory in Azerbaijan

and Belarus, in Georgia the ruling party has several times succeeded in overriding the veto of the President. Unlike Azerbaijan, Armenia, Moldova and Ukraine, constitutional reform in Georgia does not require the approval of constitutional amendments by referendum.

In terms of creating enabling conditions for the parliamentary opposition, Moldova remains the frontrunner among the EaP countries. In Ukraine, neither the Parliament's Rules of Procedure, nor the Law on Parliamentary Committees, requires that chairs of the parliamentary committees be allocated on the basis of proportional representation.

In Georgia, according to the Parliament's Rules of Procedure, the composition of parliamentary committees shall be determined taking into account the proportional representation of the parliamentary factions. However, the ruling party holds a constitutional majority (more than 75% of the seats), and all the committee heads represent the ruling party.

Civil society and media have access, on request, to official documents held by public authorities in Ukraine, Georgia and to a significant extent in Armenia. In Moldova, starting from 2017, the situation with access to public information has worsened considerably. The increasing number of refusals to provide public information have been substantiated either by referring to legislative provisions on data protection, state secrecy, or commercial secrets.

There is no distinct law on access to information held by state bodies and local government in Belarus, while in Azerbaijan a comprehensive law on access to information exists but, in practice, state bodies have broad powers to restrict public access to information on a wide range of issues.

Intimidation of civil society activists or representatives of the media investigating or reporting on human rights violations and corruption within security and law enforcement bodies has been a regular practice in Belarus and Azerbaijan. A total of 37 incidents were recorded in Ukraine where threats against journalists were not followed by effective investigations.

## INDEPENDENT MEDIA

In terms of media independence, an evident intensification of internet media censorship in Ukraine, Belarus and Azerbaijan, and the shrinking editorial independence of public broadcasters in Georgia and Moldova, were the major developments in 2017. Azerbaijan, Belarus and Armenia were still rated as Not Free by Freedom House, while Georgia, Moldova and Ukraine preserved the status of Partly Free.<sup>10</sup>

Azerbaijan ranked among the 10 worst-rated countries and territories according to the Freedom of the Press 2017 report,<sup>11</sup> and dozens of journalists and activists convicted in politically motivated trials remained behind bars in the country.<sup>12</sup> The government intensified censorship over online media in 2017 and blocked five independent news sites, including the local service of Radio Free Europe/Radio Liberty.<sup>13</sup>

In another Not Free country, Belarus, at least 100 journalists covering street protest were detained and at least 10 of them were sentenced to up to 15 days' detention. Police ill-treated six of them, reported Freedom House.<sup>14</sup> According to Human Rights Watch, authorities also prosecuted 20 journalists and continued pressure on the independent television channel, Belsat.<sup>15</sup>

In Armenia, during the parliamentary election campaign and the Yerevan municipal election campaign, several cases were reported of violence and intimidation against journalists related to their professional work.<sup>16</sup> Investigations into instances in 2016 of the beating by policemen of journalists, and the

10 On a scale from 0 (most free) to 100 (least free), the EaP countries scored as follows: Azerbaijan (90), Belarus (83), Armenia (63), Moldova (56), Ukraine (53), and Georgia (50). <https://freedomhouse.org/report/table-country-scores-fotp-2017>.

11 <https://freedomhouse.org/report/freedom-press/freedom-press-2017>.

12 *Human Rights Watch World Report 2018, Azerbaijan, Events of 2017*, <https://www.hrw.org/world-report/2018/country-chapters/azerbaijan>.

13 *Freedom in the World 2018, Azerbaijan Profile*, Freedom House, <https://freedomhouse.org/report/freedom-world/2018/azerbaijan>.

14 *Freedom in the World 2018, Belarus Profile*, Freedom House, <https://www.hrw.org/world-report/2018/country-chapters/belarus>.

15 *Ibid.*

16 *Armenia 2017 Human Rights Report*, US Department of State, p. 16, <https://www.state.gov/documents/organization/277381.pdf>.

| INDEPENDENT MEDIA |      |   |         |
|-------------------|------|---|---------|
| RANK              | 2017 |   | 2015-16 |
| GEORGIA           | 0.62 | ↘ | 0.69    |
| MOLDOVA           | 0.61 | ↘ | 0.64    |
| UKRAINE           | 0.57 | ↘ | 0.63    |
| ARMENIA           | 0.55 | ↗ | 0.53    |
| BELARUS           | 0.21 | ↘ | 0.22    |
| AZERBAIJAN        | 0.13 | ↘ | 0.23    |

intentional destruction of the professional equipment of journalists by police, failed to result in criminal convictions.<sup>17</sup>

Violence against journalists remained a problem in Ukraine. While the majority of attacks were perpetrated by non-state actors, the inaction of the government raised concerns.<sup>18</sup> The government continued to block Russian television channels from broadcasting in the country, including the independent Russian television station Dozhd.<sup>19</sup> Freedom House questioned the government's commitment to media autonomy, not least its attempts to foster "patriotic" reporting.<sup>20</sup>

In Moldova, while no cases were reported of the prosecution, fining or jailing of journalists in connection with their professional activities, the editorial freedom of the Moldovan Public Broadcaster Service was notably curtailed, and indirect government interference into the affairs of the private television channel, TV8, was undertaken through the Broadcasting Co-ordination Council.

While Georgia remained the frontrunner in Independent Media, controversy around the ownership of Georgia's most-watched television channel, Rustavi 2, continued.<sup>21</sup> The change of the editorial policy of the Georgian Public Broadcaster in favour of the ruling party became evident under its new leadership when several political talk shows, including joint programmes with Radio Free Europe/Radio Liberty, were suspended. Investigation into

17 *Ibid.*

18 *Ukraine 2017 Human Rights Report*, US Department of State, p. 21, <https://www.state.gov/documents/organization/277473.pdf>.

19 *Ibid.*

20 *Freedom of the Press 2017, Press Freedom's Dark Horizon*, Freedom House, <https://freedomhouse.org/report/freedom-press/freedom-press-2017>.

21 *Strasbourg Court Suspends the Enforcement of the Supreme Court Decision on Rustavi 2 Case*, Georgian Journal, 4 March 2017, <https://www.georgianjournal.ge/society/33370-strasbourg-court-suspends-the-enforcement-of-the-supreme-court-decision-on-rustavi-2-case.html>



the alleged involvement of Georgian officials in the kidnapping of exiled Azerbaijani journalist Afgan Mukhtarli in downtown Tbilisi produced no tangible results.<sup>22</sup>

Defamation remained a criminal offence in Belarus and Azerbaijan, punishable by a prison sentence and heavy fines. Both countries blocked access to independent media outlets and monitored the internet communications of democracy activists.<sup>23</sup> Internet freedom was respected in Moldova with no credible reports of government censoring online content or monitoring private online communications.

<sup>22</sup> EU Calls for 'Thorough, Transparent' Investigation over Mukhtarli Case, civil.ge, 15 January 2018, <https://civil.ge/archives/218981>

<sup>23</sup> Azerbaijan 2017 Human Rights Report, US Department of State, p. 18, <https://www.state.gov/documents/organization/277385.pdf>.

The governments did not generally control the content of online media in either Armenia<sup>24</sup> or Georgia,<sup>25</sup> but concerns persisted about the unauthorised surveillance of online content by authorities in both countries. Internet freedom deteriorated in Ukraine where authorities became less tolerant of online expression perceived as critical of Ukraine's position in the conflict with Russia.<sup>26</sup>

<sup>24</sup> Armenia 2017 Human Rights Report, US Department of State, p. 19, <https://www.state.gov/documents/organization/277381.pdf>.

<sup>25</sup> Georgia 2017 Human Rights Report, US Department of State, p.18, <https://www.state.gov/documents/organization/277411.pdf>.

<sup>26</sup> Ukraine 2017 Human Rights Report, US Department of State, p. 25, <https://www.state.gov/documents/organization/277473.pdf>.

## FREEDOM OF SPEECH AND ASSEMBLY

From the standpoint of ensuring freedom of assembly and association, Ukraine continued to be the leader in respecting rights and freedoms. Belarus and Azerbaijan remained the worst performing countries, where authorities failed to respect the basic rights of their citizens to assemble freely and form associations with others.

Belarusian authorities used excessive force during the mass protests in March 2017 against the so-called "social parasite tax", which would have imposed a tax on people who work fewer than 183 days per year. According to Human Rights Watch, police arbitrarily detained at least 700 people and ill-treated many of them. At least 177 people were charged with allegedly fabricated offences, and criminal charges were brought against 35 persons. By the end of the year, all of those arrested had been released.<sup>27</sup>

Azerbaijan maintained the prohibition on unauthorised rallies in city centres, and the authorities continued to closely monitor participants at authorised rallies, launching various forms of oppression against them.<sup>28</sup>

<sup>27</sup> Events of 2017, Belarus, Human Rights Watch, <https://www.hrw.org/world-report/2018/country-chapters/belarus>.

<sup>28</sup> Bertelsmann Transformation Index 2018: Azerbaijan Country Report, <https://www.bti-project.org/en/reports/>

### FREEDOM OF SPEECH AND ASSEMBLY

| RANK       | 2017 | 2015-16 |
|------------|------|---------|
| UKRAINE    | 0.83 | 0.85    |
| GEORGIA    | 0.73 | 0.72    |
| MOLDOVA    | 0.72 | 0.70    |
| ARMENIA    | 0.47 | 0.46    |
| BELARUS    | 0.10 | 0.00    |
| AZERBAIJAN | 0.00 | 0.00    |

According to Human Rights Watch, the existing legislative framework made it almost impossible for NGOs and independent groups to seek funding and carry out their work. A slight easing of the terms of regulations on international donor funding did not preclude the authorities from arbitrarily denying grant registrations. Due to the restrictions or freezing of NGOs' bank accounts, at least one dozen human rights NGOs suspended their work or moved their operations abroad.<sup>29</sup>

While there were no violent crackdowns on peaceful assemblies in Armenia, there was a pattern of intimidation of civic and political groups to obstruct attendance at opposition rallies,<sup>30</sup> and the authorities failed to carry

country-reports/detail/itc/aze/.

<sup>29</sup> Human Rights Watch World Report 2018, Azerbaijan, Events of 2017, <https://www.hrw.org/world-report/2018/country-chapters/azerbaijan>.

<sup>30</sup> Armenia 2017 Human Rights Report, US Department



out effective and prompt investigation into the police violence that had targeted peaceful protesters in 2016.

In Moldova and Georgia, freedom of assembly and association was generally respected, although the authorities in both countries failed to provide comprehensive security to representatives of minority communities, pushing the organisers of demonstrations to

of State, p. 20, <https://www.state.gov/documents/organization/277381.pdf>.

hold the events in less public places.<sup>31</sup> Although similar problems were observed in Ukraine,<sup>32</sup> international organisations noted significant improvements in the enjoyment of rights to peaceful assembly and association since the transition of power after the Revolution of Dignity in 2014.<sup>33</sup>

31 *Bertelsmann Transformation Index 2018: Moldova Country Report*, <https://www.bti-project.org/en/reports/country-reports/detail/itc/MDA/>.

32 *Ukraine 2017 Human Rights Report*, US Department of State, p. 27, <https://www.state.gov/documents/organization/277473.pdf>.

33 *Bertelsmann Transformation Index 2018: Ukraine Country*

## INDEPENDENT JUDICIARY

The lack of independence of the judiciary remained one of the biggest challenges for all EaP countries. While no major progress was registered in any of the EaP countries, Armenia remained the best performer, followed by Ukraine and Georgia. According to the US Department of State Country Reports on Human Rights Practices, judges remained vulnerable to political pressure from within and outside of the judiciary in all partner countries without exception. Corruption and bribe taking was cited as a challenge for the judiciary in Azerbaijan, Ukraine, Belarus and Moldova.

In Georgia, despite several “waves of judicial reforms”, the authorities largely failed to address systemic problems in the justice sectors, and public trust in the judiciary remained low. Confidence in the judicial branch also shrank in Moldova<sup>34</sup> and Ukraine.<sup>35</sup> In Armenia, the judiciary did not generally exhibit independence and impartiality, although the administrative courts were believed to be relatively independent.<sup>36</sup>

Judicial appointments, career advancement and the dismissal of judges were in the hands of

*Report*, <https://www.bti-project.org/en/reports/country-reports/detail/itc/UKR/>.

34 *Moldova 2017 Human Rights Report*, US Department of State, p. 11, <https://www.state.gov/documents/organization/277439.pdf>.

35 *Ukraine 2017 Human Rights Report*, US Department of State, p. 11, <https://www.state.gov/documents/organization/277473.pdf>.

36 *Armenia 2017 Human Rights Report*, US Department of State, p. 10, <https://www.state.gov/documents/organization/277381.pdf>.

| INDEPENDENT JUDICIARY |      |   |         |
|-----------------------|------|---|---------|
| RANK                  | 2017 |   | 2015-16 |
| ARMENIA               | 0.86 | ↗ | 0.74    |
| UKRAINE               | 0.65 | ↘ | 0.80    |
| GEORGIA               | 0.64 | ↗ | 0.63    |
| MOLDOVA               | 0.61 | ↘ | 0.71    |
| BELARUS               | 0.42 | ↗ | 0.34    |
| AZERBAIJAN            | 0.39 | ↘ | 0.41    |

judicial councils in Ukraine, Georgia, Moldova and Armenia. However, the independence of the judicial councils was questioned in all partner countries except for Armenia. In Belarus, the legislative framework that entitles the President to appoint judges of the common courts had not been changed. In Azerbaijan, judges were still appointed by the parliament on the nomination of the President.

While the legislative framework provided for the appointment, advancement and dismissal of judges based on objective criteria in Ukraine, Belarus, Armenia and Azerbaijan, this was not translated into practice. In most cases, the process of selection and promotion of judges was arbitrary and influenced by political considerations.

In Georgia and Moldova, even the statutory criteria for the selection of judges failed to meet the standard of objectivity. Accordingly, bias in the selection and promotion of judges, including examples where judges with questionable integrity were appointed or promoted, represented the leading challenge to judicial independence in Moldova and Georgia.

In Moldova, the unconstitutional removal of a judge of the Court of Appeal, based on an advisory opinion issued by the Security and Intelligence Service, could have a chilling effect on other judges.<sup>37</sup>

In response to the question whether “judicial decisions are based solely on the facts and law without any undue influence from senior judges, private interests, or other branches of government”, the answer was “No” from the experts from Ukraine, Belarus, Armenia and Azerbaijan and “Partially” from Georgia and Moldova.

In Armenia, “the courts felt compelled to satisfy investigators’ requests for pretrial detentions and prosecutors’ requests for detention while cases were at trial; legal experts stated such practices undermined judicial independence and reinforced the impression that courts were simply tools and that investigators actually determined the length of a detention”.<sup>38</sup>

In Azerbaijan, many verdicts were legally insupportable and largely unrelated to the evidence presented during the trial.<sup>39</sup> In Belarus, according to the US Department of

37 *Moldova 2017 Human Rights Report*, US Department of State, p. 12, <https://www.state.gov/documents/organization/277439.pdf>.

38 *Armenia 2017 Human Rights Report*, US Department of State, p. 10, <https://www.state.gov/documents/organization/277381.pdf>.

39 *Azerbaijan 2017 Human Rights Report*, US Department of State, p. 9, <https://www.state.gov/documents/organization/277385.pdf>

State Report, courts convicted individuals on false and politically motivated charges brought by prosecutors, and it was believed that the authorities dictated the outcomes of trials.<sup>40</sup> In Ukraine, according to the US Department of State Report, some high-ranking politicians pressured judges to decide cases in their favour, regardless of the merits of the case, and some judges and prosecutors took bribes in exchange for legal determinations.<sup>41</sup>

Formally, court hearings are public in all EaP countries. However, as in the previous reporting period, there were instances when the authorities tried to conduct justice behind closed doors. In Moldova, the public and the press were denied access to court proceedings in several high-profile cases.<sup>42</sup> In Georgia, at times, courts did not provide an explanation for holding a closed hearing. In Azerbaijan, in politically sensitive cases the authorities limited independent court monitoring by having plain-clothes police and others occupy courtroom seats and the judges failed to read verdicts publicly, leaving defendants unaware of the reasoning behind the judgement.<sup>43</sup>

40 *Belarus 2017 Human Rights Report*, US Department of State, p. 9, <https://www.state.gov/documents/organization/277387.pdf>.

41 *Ukraine 2017 Human Rights Report*, US Department of State, p. 11, <https://www.state.gov/documents/organization/277473.pdf>.

42 *Moldova 2017 Human Rights Report*, US Department of State, p. 11, <https://www.state.gov/documents/organization/277439.pdf>.

43 *Azerbaijan 2017 Human Rights Report*, US Department of State, p.9, <https://www.state.gov/documents/organization/277385.pdf>

## EQUAL OPPORTUNITIES AND NON-DISCRIMINATION

There was no progress in terms of advancing anti-discrimination legislation either in Belarus or in Azerbaijan. While the Armenian authorities developed a draft law on Equality, they did not succeed with its adoption. Three EaP partner countries – Georgia, Ukraine and Moldova – have framework laws on protection against discrimination.

In Georgia, amendments to the Law on Elimination of All Forms of Discrimination prepared by the Public Defender (Ombudsman) remained pending in the parliament since 2015. In terms of the ratification of international

### EQUAL OPPORTUNITIES AND NON-DISCRIMINATION

| RANK       | 2017   | 2015-16 |
|------------|--------|---------|
| UKRAINE    | 0.75 ↔ | 0.75    |
| MOLDOVA    | 0.68 ↘ | 0.79    |
| GEORGIA    | 0.64 ↘ | 0.68    |
| ARMENIA    | 0.48 ↗ | 0.47    |
| AZERBAIJAN | 0.44 ↗ | 0.41    |
| BELARUS    | 0.25 ↘ | 0.31    |

instruments on the protection of minorities and the fight against discrimination, Ukraine remained the frontrunner, followed by Moldova and Armenia. As Belarus did not advance on the ratification of international treaties in 2017, it remained the worst performer.

Moldova is the only country in the region with a specialised equality body – the Council on Ensuring Equality and Combating Discrimination. In Georgia and Ukraine, the powers of equality mechanisms are vested in the Ombudsman's Offices. Except in the case of Moldova, the recommendations issued by these institutions are non-binding. The political and financial independence of the equality bodies are ensured in all three countries, albeit to a lesser extent in Moldova, where the Council's operational budget is approved by the Ministry of Finance and the regulations on the Council's procedures are approved by the parliament.

The courts ruled on cases of discrimination in Ukraine, Georgia and Armenia. There have not been court decisions on discrimination in the remaining three EaP countries.

Belarus remained the leader in terms of ensuring gender equality in the parliament, where out of 110 parliamentarians, 38 were women (34.5%), followed by Moldova (21.8%), Azerbaijan (16.8%), Georgia (16%) and Ukraine (12%). The worst performer was Armenia with the lowest representation of women in the parliament at 10.7% (14 parliamentarians out of 131).

## FIGHT AGAINST CORRUPTION<sup>44</sup>

According to the Transparency International Corruption Perceptions Index (CPI) 2017, perceived levels of public sector corruption varied considerably among the six EaP countries.<sup>45</sup> As in the previous years, Georgia was the best performer with the highest score of 56 out of a maximum of 100 for zero corruption, followed by Belarus (44) and Armenia (35). Moldova and Azerbaijan had similar scores (31), followed by Ukraine with the lowest score (30).

Compared with the last reporting period, progress was registered in the scores of Belarus, Moldova, Azerbaijan, Armenia and Ukraine, while the score of Georgia slightly worsened in 2017.

Subsequent to the developments in the Index 2017 reporting period, the fight against corruption was cited as one of the top priorities of the new government in Armenia where, after the change of government in May 2018, anti-corruption investigations resulted in the return of approximately US\$42 million to the state budget. In addition, the Ukrainian parliament adopted the long-awaited Law on the High Anti-Corruption Court only in June 2018. However,

| FIGHT AGAINST CORRUPTION |      |
|--------------------------|------|
| RANK                     | 2017 |
| MOLDOVA                  | 0.88 |
| GEORGIA                  | 0.86 |
| ARMENIA                  | 0.79 |
| UKRAINE                  | 0.79 |
| AZERBAIJAN               | 0.62 |
| BELARUS                  | 0.60 |

the effectiveness of the court will depend on necessary amendments to other pieces of legislation that have not been enacted yet.

Moldova has considerably advanced its legislative framework by adopting the Law on Integrity in the Public Sector, the Law on the Prevention of Money Laundering and Combating Terrorist Financing and the new National Integrity and Anti-corruption Strategy for 2017-2020. However, the authorities failed to pass legislation on whistleblower protection. An important step forward was the creation in 2017 of a Criminal Assets Recovery Agency within the National Anti-Corruption Centre with a view to securing the recovery of illicit assets. While there have been no convictions, the Agency reported that seven cases were the subject of investigations.

After illicit enrichment was criminalised in Armenia through amendments to the Criminal Code, which came into effect on 1 July 2017, illicit enrichment is now illegal in all EaP countries, except for Azerbaijan. Unlike Moldova and Ukraine, there were no reported cases of illicit enrichment in Georgia

<sup>44</sup> The subsection Fight Against Corruption includes additional sources and questions – in particular to ensure assessment of implementation of anti-corruption measures in addition to legal provisions on the statutes. For this reason, the subsection scores are not directly comparable with the figures for this subsection in earlier editions of the Index.

<sup>45</sup> [https://www.transparency.org/news/feature/corruption\\_perceptions\\_index\\_2017](https://www.transparency.org/news/feature/corruption_perceptions_index_2017).

and Armenia. In Belarus, according to the Information and Analytical Centre under the Office of the President, in 2017, 337 people faced criminal charges for theft by abuse of authority, and 156 people faced charges for taking bribes.

The declaration of assets by politicians and public figures is mandatory in all EaP countries. The Ukrainian parliament introduced amendments to the Law on Prevention of Corruption requiring anti-corruption activists to declare their assets on an equal footing with public officials, a step that drew criticism from international organisations, including the EU.<sup>46</sup>

Georgia is the only EaP country that has comprehensive legislation on whistleblower protection, although a law on whistleblowing was adopted in Armenia on 9 June 2017 and it will enter into effect on 1 January 2018. The effectiveness of the whistleblower protection in Georgia was questioned during the 2017, when the Chair of Tbilisi City Court, after making public statements alleging corruption and misconduct in the judicial leadership,

46 *Ukraine's Parliament Fails to Cancel E-Declarations for Anti-Corruption Activists*, UNIAN.NET, 3 April 2018, <https://www.unian.info/politics/10066970-ukraine-s-parliament-fails-to-cancel-e-declarations-for-anti-corruption-activists.html>

was dismissed from the position in violation of the procedural rules.<sup>47</sup> Investigations into the alleged corruption were ongoing after the reporting period for the Index 2017, but the former Chair of the Court was not reinstated.

Three EaP countries – Georgia, Ukraine and Moldova – have effective legislative frameworks ensuring transparency of media ownership, while disclosure of the beneficial ownership of companies is required in all EaP countries except Azerbaijan.

There are specialised anti-corruption institutions to investigate and prosecute corruption-related crimes in Ukraine, Moldova and Azerbaijan. There is no single agency in charge of all corruption-related cases in Armenia, Belarus or Georgia. A special body that elaborates general anti-corruption strategies and action plans exists in all partner countries except for Belarus where co-ordination meetings of interdepartmental bodies are convened by presidential decree to determine anti-corruption strategy.

47 *The High Council of Justice Dismissed Mamuka Akhvediani in Violation of the Law*, Coalition for Independent and Transparent Judiciary, 23 February 2016, <https://idfi.ge/en/the-high-council-of-justice-dismissed-mamuka-akhvediani-in-violation-of-the-law>

## PUBLIC ADMINISTRATION

Ukraine considerably improved its score compared with the previous Index, leaving Moldova, Georgia and Armenia a long way behind. According to the experts, the public administration reform in Ukraine has been the most advanced and effective in the region, and in 2017 a large-scale reorganisation of ministries was launched and directorates in charge of policy development, strategic planning and European integration were created in ministries and government agencies.

In Georgia, further steps with regards to public administration reform were taken in line with the EU Principles of Public Administration,<sup>48</sup>

48 *Association Implementation Report on Georgia. Joint Staff Working Document, SWD (2017) 371 final*, European Commission and European External Action Service, Brussels, 9 November 2017, <https://eeas.europa.eu/>

| PUBLIC ADMINISTRATION |      |         |
|-----------------------|------|---------|
| RANK                  | 2017 | 2015-16 |
| UKRAINE               | 0.69 | 0.58    |
| MOLDOVA               | 0.58 | 0.61    |
| GEORGIA               | 0.53 | 0.59    |
| ARMENIA               | 0.49 | 0.63    |
| AZERBAIJAN            | 0.47 | 0.49    |
| BELARUS               | 0.33 | 0.43    |

and a new law on Civil Service entered into force on 1 July 2017. The law creates an effective basis for the establishment of an efficient, depoliticised, career-based civil service.

While all of the EaP countries have laws governing the civil service, Ukraine – followed by Moldova, Georgia and Armenia – has

[headquarters/headquarters-homepage/35362/association-implementation-report-georgia-joint-staff-working-document\\_en](https://eeas.europa.eu/headquarters/headquarters-homepage/35362/association-implementation-report-georgia-joint-staff-working-document_en)

the most developed legal and institutional framework for civil service management and coordination. A code of conduct for civil servants exists in all EaP countries except for Belarus, where civil servants usually follow certain informal rules.

While all six countries have a legislative framework requiring the disclosure of conflicts of interest in the civil service, these conflicts are effectively addressed in practice only in Moldova and Belarus, but not in Armenia, Azerbaijan, Georgia or Ukraine.

In Georgia, the legislative definition of family and household members does not account for the intensity of personal linkages in the country, where extensive networks of friends and extended family are just as important as the immediate household. While the media carries frequent reports of nepotism and abuse of position, effective follow-up is usually lacking.

In terms of policy formulation and coordination, Moldova is the frontrunner, followed by Ukraine and Armenia. Legislation provides for mandatory consultations with the public in Ukraine and Moldova. In Belarus, it is up to the discretion of the agency in charge of the respective policy to initiate public discussions.

Although there is a legal obligation to hold public discussions on draft laws in Armenia, in practice this is usually limited to web-based discussion that makes the process largely formal and ineffective. In Georgia, while there is no legal requirement to hold public consultations, on specific pieces of legislation representatives of civil society are actively engaged, and standard practices include working group meetings with NGOs.

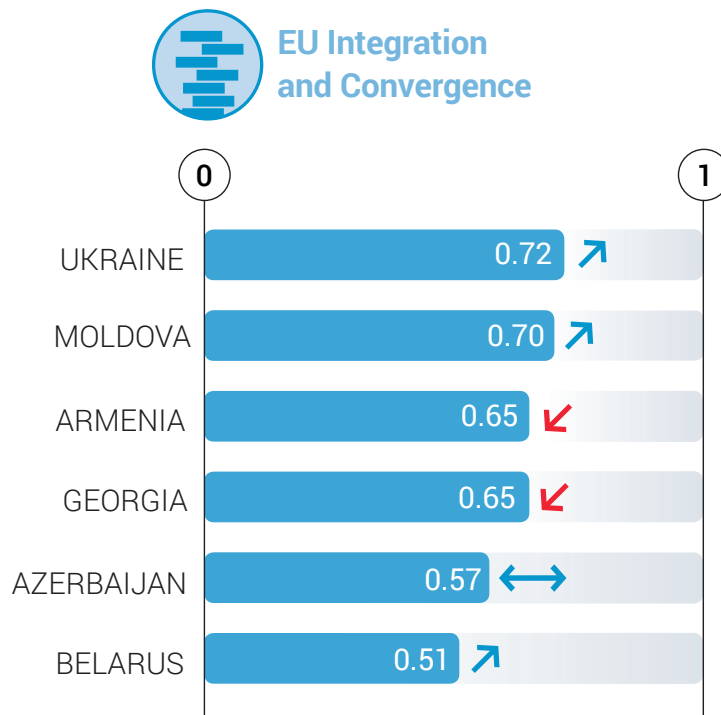
Ukraine, followed by Georgia, is the frontrunner in terms of ensuring effective local governance. The principle of local government is recognised at the constitutional level in all EaP countries, while the legislative framework mandates the direct election of mayors (heads of the executive branch at the local level) in only Ukraine, Moldova and Georgia. In Armenia, in the three biggest communities (including Yerevan), the head is elected through the elected council.

Local authorities are not obliged to hold public consultations before making policies or taking decisions that concern citizens directly in Belarus, Georgia, or Azerbaijan. In Ukraine, this obligation is limited to certain infrastructural projects, or where stipulated in local statutes, while in Moldova the obligation to hold public consultations in line with the 2008 Law on Transparency in the Decision-Making Process covers both national and local government.





# EU INTEGRATION AND CONVERGENCE



EU Integration and Convergence measures convergence with EU norms on trade, security, migration, energy, environment and transport infrastructures. The indicators contributing to the scores are:

- Market Economy and DCFTA Alignment
- Freedom, Security and Justice
- Energy: Legislation Convergence and Energy Policy
- Environment and Climate Policy
- Transport: Regulatory Policy

## MARKET ECONOMY AND DCFTA ALIGNMENT<sup>49</sup>

To assess the EaP countries' convergence towards a market economy with a level playing field and protection of property rights, the Index draws on a range of international indicators, including the World Bank Doing Business rankings, the European Bank for Reconstruction and Development (EBRD) Transition Reports, and the Global Competitiveness Report of the World Economic Forum.

In 2017, the conditions for doing business showed a mixed picture across the EaP countries. Georgia remained the frontrunner in terms of the business climate, while Ukraine and Moldova – the other two countries that have signed an Association Agreement, including a Deep and Comprehensive Free Trade Area (DCFTA) agreement with the EU – trailed behind all the other EaP countries.

When it comes to the simplification of procedures for initiating a business, Georgia (the frontrunner, rising from 8th position to 4th in the global ranking), Moldova and (slightly) Belarus improved their rankings, while the other three countries slipped substantially (in the case of Ukraine, from 20th to 52nd position, and of the previous frontrunner, Azerbaijan, from 5th to 18th).

Although Azerbaijan has the most favourable ranking when it comes to settling solvency, the progress in Georgia was the most marked. The framework for the payment of taxes saw a strong improvement in Ukraine in 2017 (improving from 84th to 43rd in the rankings), but Georgia, Moldova and Azerbaijan hold the highest three places among the six countries on tax payments, according to the Doing Business rankings.

With regards to systems of contract enforcement, Georgia, Azerbaijan and Belarus performed better than in 2016, while Armenia slipped back. The biggest improvement in ensuring property rights was evident in Georgia, which became the frontrunner in this regard.<sup>50</sup>

<sup>49</sup> The Sector Transition data gathered in the previous Index, using EBRD Transition Indicators, was not available in comparable form for the reporting period of Index 2017, so has not been included. For this reason, an exact year-on-year comparison with the previous Index is not possible for the Market Economy and DCFTA Alignment section.

<sup>50</sup> <http://www.doingbusiness.org/rankings>

### MARKET ECONOMY AND DCFTA ALIGNMENT

| RANK       | 2017 |   | 2015-16 |
|------------|------|---|---------|
| GEORGIA    | 0.84 | ↗ | 0.66    |
| ARMENIA    | 0.70 | ↗ | 0.60    |
| AZERBAIJAN | 0.64 | ↗ | 0.43    |
| MOLDOVA    | 0.62 | ↗ | 0.53    |
| UKRAINE    | 0.58 | ↗ | 0.53    |
| BELARUS    | 0.58 | ↗ | 0.36    |

Trade defence tools vary within region, in part since Georgia, Moldova and Ukraine have DCFTAs with the EU, while Armenia and Belarus are members of the Russia-led trade bloc, the Eurasian Economic Union (EAEU). Azerbaijan is in neither framework. For Armenia and Belarus, EAEU membership implies the delegation of competences (such as anti-dumping competences) to the EAEU, while the other four countries rely on their domestic legislative and institutional frameworks dedicated to counteracting unfair trade practices. No significant progress was made by Belarus or Azerbaijan in 2017 in pursuit of membership of the World Trade Organization (WTO), although Azerbaijan did seek to accelerate the accession negotiations.

Despite not having an AA with the EU, Armenia continued to be much closer to the three AA signatories in its scores for DCFTA. Georgia was the frontrunner, followed by Ukraine, in DCFTA alignment.

The transposition of EU standards into national legislation accelerated in 2017, most notably in Georgia, where it increased from 32% to around 90%, and where 66% of EU standards were harmonised into national standards. So far, Moldova has transposed close to 100% of EU standards into national standards, and has harmonised more than 80% of national standards to EU standards.

Although Ukrainian authorities announced plans to adopt EU standards, the situation did not change dramatically. Ukraine harmonised only 39% of EU standards into national standards, and aligned 60% of national standards with EU standards.

Just as all six countries participate in the International Organization for Standardization (ISO), they are all affiliated members of the European Committee for Standardisation (CEN).

In the case of the European Committee for Electrotechnical Standardization (CENELEC), the three DCFTA countries and also Belarus have an affiliated status. Participation in the European Telecommunications Standards Institute (ETSI) remained limited in the case of Ukraine, Georgia and Moldova, and totally absent for the other three countries. Communications with the European Accreditation body has been established in all six countries. but DCFTA provisions resulted in the signing by Ukraine, Moldova and Georgia of more mutual accreditation recognition agreements.

Sanitary and phytosanitary (SPS) norms – Codex Alimentarius<sup>51</sup> and HACCP (Hazard Analysis and Critical Control Points) – are applied in the EaP region, although Belarus and Armenia co-ordinate application within the framework of the technical regulations of the EAEU. Since the reporting period of the previous Index, only Belarus increased the number of animal origin products exported to the EU for human consumption (from two to five categories). Overall, Ukraine leads in this area, supplying nine categories to the EU market, while Azerbaijan supplies none.

Belarus, like the three DCFTA countries, implements traceability mechanisms for animals. Concomitantly, together with Armenia

51 The Codex Alimentarius Commission, established by the UN's Food and Agriculture Organization (FAO) and the World Health Organization (WHO), sets standards and codes of practice to protect consumer health and promote fair practices in the food trade.

and Azerbaijan, Belarusian authorities are not involved in establishing EU-like food safety alert systems and Belarus is not engaged in a systematic adoption of EU-specific SPS legislation.

In terms of approximation and procedures in customs and trade facilitation, Georgia is the frontrunner, followed by Azerbaijan and Armenia. Ukraine and Moldova trail a little, and Belarus remains a long way behind.

Although electronic services are developing in the EaP countries, and all six countries offer basic electronic services (such as electronic signatures), the regulatory framework is underdeveloped in Belarus, Armenia and Azerbaijan. Belarus lacks independent regulatory authorities in the banking and insurance sectors.

The EaP countries have a framework in place for the protection of intellectual property rights (IPR) at the border, but Belarus still doesn't have an agreement on the protection of EU geographical indications, and Azerbaijan continues to lack a legal enforcement framework for IPR protection.<sup>52</sup>

The DCFTA countries, together with Armenia, possess the most comprehensive competition policies, while the weakest ones are in Belarus and Azerbaijan.

52 **Global Competitiveness Report**, <http://www3.weforum.org/docs/GCR2017-2018/05FullReport/TheGlobalCompetitivenessReport2017%E2%80%932018.pdf>

## FREEDOM, SECURITY AND JUSTICE

Ukraine, closely followed by Georgia and Moldova, leads in the Index 2017 ranking for Freedom, Security and Justice. A visa-free regime with the EU's Schengen zone has been established in the case of these three countries. Armenia has had an EU visa facilitation regime in place since 2014 and is aiming to start negotiations for visa-free travel (visa liberalisation).

Both in visa regimes and in their data protection frameworks, Belarus and Azerbaijan lag behind the other four countries. Talks are

| FREEDOM, SECURITY AND JUSTICE |      |   |         |
|-------------------------------|------|---|---------|
| RANK                          | 2017 |   | 2015-16 |
| UKRAINE                       | 0.97 | ↔ | 0.97    |
| GEORGIA                       | 0.96 | ↗ | 0.88    |
| MOLDOVA                       | 0.94 | ↘ | 0.97    |
| ARMENIA                       | 0.77 | ↗ | 0.75    |
| AZERBAIJAN                    | 0.70 | ↗ | 0.68    |
| BELARUS                       | 0.36 | ↘ | 0.43    |

underway towards a visa facilitation agreement between Azerbaijan and the EU, but Belarus – the only EaP country that does not issue biometric passports – is the EaP country where readmission arrangements with the EU are least developed, and where policies on migration are

weakest. Improvements have been reported in refugee-related policies in both Armenia and Azerbaijan.

Five EaP countries (the exception is Belarus) use the integrated border management concept and allow the customs service to undertake criminal investigations. Moldova and Ukraine have checkpoints administered together with EU member states, primarily due to geographical proximity to EU borders, and the same tandem lead the EaP region with regard to the degree of border demarcation: Moldova has

99% of its border demarcated, and Ukraine has 67% demarcated.

Anti-money laundering legislation is in place in all six countries. However, Azerbaijan has not defined a clear strategy to fight organised crime, and Belarus is not a party to the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism. The international and national legislation applied in all six countries includes provisions for the protection of victims of human trafficking and for preventing and combatting drug addiction.

## ENERGY: LEGISLATION CONVERGENCE AND ENERGY POLICY

There were no substantive changes in the energy sector in the EaP region compared with the period covered by the previous Index. Armenia continued to be the highest ranked, followed by Azerbaijan, and Georgia remained the lowest placed EaP country, a position which might change as a result of its membership in the Energy Community starting from July 2017.

Energy market regulatory bodies remained wholly or substantially independent in four countries (the regulators were not independent in Belarus or Moldova), while tariff setting continued to be somewhat non-transparent in all six countries. In all six countries, the sector is run by a monopoly that does not allow consumer households the option to choose between operators.

Moldova is the most advanced in terms of legal approximation with the Third Energy Package.<sup>53</sup>

<sup>53</sup> The Third Energy Package for an internal gas and

### ENERGY: LEGISLATION CONVERGENCE AND ENERGY POLICY

| RANK       | 2017 | 2015-16 |
|------------|------|---------|
| ARMENIA    | 0.64 | 0.67    |
| AZERBAIJAN | 0.60 | 0.61    |
| UKRAINE    | 0.55 | 0.59    |
| BELARUS    | 0.55 | 0.42    |
| MOLDOVA    | 0.54 | 0.49    |
| GEORGIA    | 0.30 | 0.33    |

New energy interconnections linking the countries with the EU (Moldova with Romania) and between EaP countries (Georgia-Armenia) are in the process of construction.

Energy efficiency is more problematic in Ukraine and Moldova due to high energy intensity levels (consumption of energy per unit of GDP). Georgia, the single EaP country with no legislation around energy efficiency, was finally preparing a legislative package with a view to its enactment in 2018/2019.

electricity market in the EU, which came into force on 3 September 2009, includes ownership unbundling – the separation of companies' generation and sales operations from the transmission network – and the establishment of national regulatory authorities.

## ENVIRONMENT AND CLIMATE POLICY

The most convincing progress in the adoption and revision of essential environmental and climate policies was achieved by Ukraine, taking over from now second-placed Moldova, then followed by Armenia and Belarus. Georgia and Azerbaijan slowed down their efforts. In Ukraine and Moldova, a framework

### ENVIRONMENT AND CLIMATE POLICY

| RANK       | 2017 | 2015-16 |
|------------|------|---------|
| UKRAINE    | 0.77 | 0.66    |
| MOLDOVA    | 0.76 | 0.74    |
| BELARUS    | 0.70 | 0.50    |
| ARMENIA    | 0.70 | 0.64    |
| GEORGIA    | 0.58 | 0.64    |
| AZERBAIJAN | 0.52 | 0.60    |



environmental policy has been adopted, and Ukraine is finalising the revision of the State Environmental Strategy (the strategy is adopted by law). In the other four EaP countries, the process of consideration of a framework environmental policy, in the format of a strategy or programme, with strong legal status, is still pending, or the status remains internal (adopted only by the Ministry of Environment), or a plan to elaborate it has not been implemented.

Only Ukraine made progress in setting measurable goals and objectives. In other countries, the policies are either not measurable or only partially measurable. The existing strategic documents contain fully or partially the planned institutional reforms and divisions of competence for environmental administration at national, regional, and municipal levels. However, the procedures for decision-making and implementation, the promotion of the integration of environmental policy into other policy areas, and the identification of the requisite human and financial resources, have not been assured. Review mechanisms are also reflected only partially.

Stakeholder involvement procedures were assessed as satisfactory or partially satisfactory in five countries. The exception was Georgia, which continues to lack public engagement during the policy preparation stage. Typical gaps in stakeholders' involvement procedures concerned insufficient publicity for announcements of public consultations and limited feedback on their results. Only in the case of Ukraine did the authorities publish a table outlining which stakeholder comments had been included and which had not, and an accompanying analysis with explanations, but even in Ukraine this is still not standard practice.

National legislation in Ukraine, Belarus and Georgia requires the obligatory integration of environmental policy into economic sectors' policies, while progress has been made by all countries on the adoption of the main horizontal instruments of strategic environmental assessment and environmental impact assessment according to international standards. Step-by-step improvements are being made in the preparation of sectoral environmental policies, such as water resources management, waste and resources management, nature protection, industrial pollution and chemicals.

Institutional weaknesses, and a lack of assessment systems, hinder a comprehensive evaluation of the effectiveness of the implementation of environmental policies. In the case of Georgia and Moldova, potential institutional shortfalls include the combination in one ministry of both the environment and agriculture portfolios at a time when environmental considerations and sustainable development should play a bigger role in policies concerning both agricultural production and regional development.

Evaluation of implementation of policies is complicated by the fact that out of 42 main UN Economic Commission for Europe (UNECE) environmental indicators, Moldova provides statistics for only three, Azerbaijan eight, Georgia 14 (slightly grown), Ukraine 17, and Belarus 27 (slightly increased). Armenia, with 37 indicators, is the only country close to the benchmark of 42.

All countries ratified the Paris Agreement on Climate Change, but only Moldova and Ukraine adopted a national action plan on climate change mitigation as a separate document or as part of the climate change policy implementation plan, in accordance with international obligations.

In Moldova, a national strategy on climate change adaptation was adopted. In the other countries, strategies are at varying stages of preparation. All six countries are working on developing sectoral strategies on climate change adaptation, some of which have already been adopted, and all countries have dedicated departments or bodies dealing with climate change issues.

The majority of the six countries are party to a range of multilateral environmental agreements (MEAs) and continue to ratify signed agreements or are preparing accession.

Azerbaijan and Georgia are the least active in multilateral agreements. Ukraine no longer has non-compliance status within the Aarhus Convention and is finalising the implementation of the Espoo Convention's recommendations to restore compliance, Armenia was non-compliant within the Aarhus convention, and compliance cases are under consideration with respect to the Aarhus Convention in the cases of both Moldova and Belarus. Other countries were not determined by the Conventions' Meetings of

Parties (MOPs) to be in non-compliance with environmental MEAs (Georgia is not a party to the Espoo Convention), but the majority of EaP countries need to improve their reporting on environmental MEAs, and at least to increase transparency and to make reports on MEA implementation available to the public on the internet.<sup>54</sup>

54 The UNECE Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters – known as the Aarhus Convention – established a number of rights of the public (to access to environmental information and public participation in environmental decision-making, <http://ec.europa.eu/environment/aarhus/>). The Espoo Convention (Convention on Environmental Impact Assessment in a Transboundary Context) sets out obligations to assess the environmental impact of activities at an early stage of planning, and for consultations on major projects with the potential to have a significant environmental impact across boundaries. <http://www.unece.org/env/eia/eia.html>

Legislation on the prevention and control of invasive alien species is in place only in Belarus, Georgia and Ukraine, at the preparation stage in Moldova, partially provided in Azerbaijan, and absent in Armenia. Only Ukraine (three) and Belarus (one) have established UNESCO Transboundary biosphere reserves, related to which joint management bodies were established.

Ukraine is the most active country in bilateral co-operation, having concluded more than 50% of the possible total number of bilateral environmental agreements with EU and EaP countries. The number has increased in the case of Georgia, which has signed agreements with 42% of the potential partner countries, while the other EaP countries have concluded between 20% and 30%. Azerbaijan is the least active in concluding bilateral agreements.

## TRANSPORT: REGULATORY POLICY

In terms of regulation in transport, Ukraine, followed by Moldova, lead in approximation to good practice, while Belarus and Azerbaijan lag furthest behind.

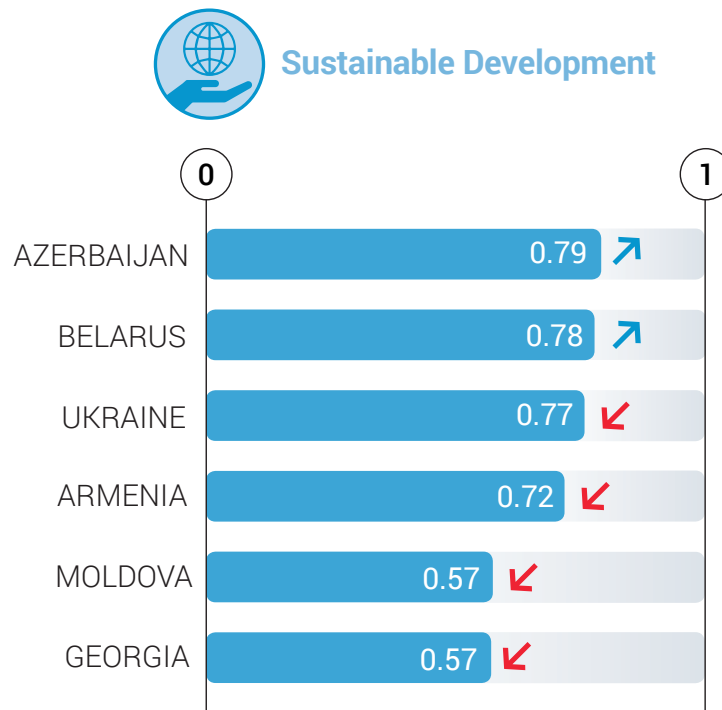
The level of the state's monopoly is less dominant in air and maritime transportation in the majority of the EaP countries, but this refers mainly to third parties' access to transport infrastructure rather than to privatised ownership of assets. The highest degree of independence among regulators is registered in Moldova (for airports, ports, and roads, but not for rail), while in Belarus none of the regulatory authorities are independent.

### TRANSPORT: REGULATORY POLICY

| RANK       | 2017 |   | 2015-16 |
|------------|------|---|---------|
| UKRAINE    | 0.71 | ↓ | 0.75    |
| MOLDOVA    | 0.66 | ↓ | 0.71    |
| GEORGIA    | 0.57 | ↓ | 0.80    |
| ARMENIA    | 0.45 | ↓ | 0.66    |
| AZERBAIJAN | 0.38 | ↓ | 0.52    |
| BELARUS    | 0.36 | ↓ | 0.38    |

The three South Caucasus countries have the highest indicators of mortality caused by transport-related accidents in transport situations, with Azerbaijan registering the biggest number of deaths per capita. If transport modernisation projects underway in since 2016 are realised (such as the Armenian Transport Sector Development Strategy 2020), the indicators could see improvements in the coming years.

# SUSTAINABLE DEVELOPMENT



Sustainable Development measures the sustainable development policies of the EaP countries and the extent to which they have achieved the sustainable development goals defined by the United Nations. The indicators contributing to the scores are:

- Sustainable Development Policy
- Sustainable Development Goals
- Education and Culture Policy

## SUSTAINABLE DEVELOPMENT POLICY

All six countries have continued to adopt new, or update existing, sustainable development strategies or develop Green economy programmes.<sup>55</sup> Institutional mechanisms have been launched for the implementation of

55 The United Nations Conference on Sustainable Development – or Rio+20 – took place in Rio de Janeiro, Brazil, on 20-22 June 2012, and resulted in the decision to develop a set of Sustainable Development Goals, and the adoption of guidelines on green economy policies. <https://sustainabledevelopment.un.org/rio20.html>

| SUSTAINABLE DEVELOPMENT POLICY |      |   |         |
|--------------------------------|------|---|---------|
| RANK                           | 2017 |   | 2015-16 |
| AZERBAIJAN                     | 1    | ↔ | 1       |
| BELARUS                        | 1    | ↗ | 0.75    |
| ARMENIA                        | 0.75 | ↘ | 1       |
| UKRAINE                        | 0.75 | ↔ | 0.75    |
| MOLDOVA                        | 0.50 | ↘ | 1       |
| GEORGIA                        | 0.25 | ↘ | 0.40    |

sustainable development goals and objectives, for instance the Trade and Sustainable Development Council in Ukraine or the Sustainable Development Goals Council in Belarus.

## SUSTAINABLE DEVELOPMENT GOALS<sup>56</sup>

The Index 2017 is the second edition of the Index to take an indepth look at policies and performance on sustainable development, and to assess indicators measuring the implementation of the Sustainable Development Goals (SDGs).

| SUSTAINABLE DEVELOPMENT GOALS |      |   |         |
|-------------------------------|------|---|---------|
| RANK                          | 2017 |   | 2015-16 |
| BELARUS                       | 0.75 | ↗ | 0.71    |
| UKRAINE                       | 0.58 | ↘ | 0.61    |
| GEORGIA                       | 0.58 | ↗ | 0.57    |
| ARMENIA                       | 0.58 | ↘ | 0.63    |
| AZERBAIJAN                    | 0.58 | ↗ | 0.56    |
| MOLDOVA                       | 0.46 | ↘ | 0.51    |

## HEALTH AND POVERTY

Poverty levels remain high in Georgia and Armenia.<sup>57</sup> In Georgia, 4.2% of the population live on less than US\$1.90 per day, on top of which the country suffers the highest maternal mortality rate (36 per 100,000 births). Belarus leads on health indicators with by far the fewest maternal deaths (four per 100,000) and a mortality rate of children under five of less than four per 1,000 births. In contrast, the worst result was recorded in Azerbaijan with 23 deaths per 1,000 births. All six countries achieved a reduction in child mortality rates since the previous Index.

All six countries have a low suicide mortality rate. According to the European Bank for

56 For the section on Sustainable Development Goals, some Index sources have not published new data since 2016, so the most recent data available has been used. As a result, some changes that might have taken place will not be fully reflected in the Index 2017.

57 World Bank Open Data, <https://data.worldbank.org/>

Reconstruction and Development (EBRD), life satisfaction remains the lowest among Ukrainians, while Azerbaijanis are the most satisfied. According to the Human Development Index (HDI) of the UN Development Programme (UNDP), Belarus is the highest placed, and Moldova remains the lowest.

## EDUCATION AND LIFE-LONG LEARNING OPPORTUNITIES

Education for sustainable development is mainstreamed in national education policies, curricula, teacher education and student assessment in the six countries. Georgia has a Centre for Environmental Education under the Ministry of Education and an Action Plan for Environmental Education for Sustainable Development. Ukraine has special educational programmes devoted to knowledge and skills in sustainable development, and Moldova's school curriculum includes environment-related subjects in a mandatory civic education module.

## GENDER EQUALITY AND WOMEN'S EMPOWERMENT

According to the UNDP's Gender Inequality Index, gender inequality remains at a low level in five EaP countries. The situation is the worst in Georgia and Azerbaijan. At the other end, Belarus is far ahead of the other EaP countries.<sup>58</sup>

## WATER AND SANITATION

All six countries enjoy good access to improved water, especially Belarus and Armenia, both with more than 99% access. Moldova is the least connected with 88% access. On access to improved sanitation, Ukraine and Belarus are the best placed with 96% and 94% respectively. Moldova trails the other EaP countries with only 76% access.

## SUSTAINABLE ECONOMIC GROWTH

The dynamics of domestic material consumption (DMC) – consumption driven by domestic demand – provide insight into whether there is a decoupling between the use of natural resources and economic growth. Among the six countries, Belarus has the worst rate at 17.5 tonnes per capita. The other five countries' rates range from Ukraine at 12.5 to Georgia at 6.8 tonnes per capita.

An important indicator concerning sustainable development is the percentage of arable land area. A high portion of arable land used for cultivation of crops exposes the environment to soil erosion, surface water contamination through irrigation, and other negative impacts on biological and landscape diversity. In Ukraine and Moldova, the percentage of arable land area is worryingly high at 56.2% and 55.3% respectively in stark contrast to the figure in Georgia of only 6.6%.

Another indicator – agriculture value added – measures “the value of the gross output of producers less the value of intermediate goods and services consumed in production, before accounting for consumption of fixed capital in production”.<sup>59</sup> It shows the effectiveness of production in the agricultural sector.

The highest agriculture value added – 14.9% – is observed in Armenia, followed by Moldova and Ukraine on 12.2% and 10.2% respectively in spite of the fact that their high rates of arable area raise concerns about the resilience of their ecosystems. Georgia, in contrast, combines a very low percentage of arable land with agriculture value added of only 7%. The least sophisticated agriculture of the six countries is evident in Azerbaijan – with agriculture value added of only 5.6%.

Unemployment rates have risen in five of the EaP countries. The exception is Belarus with just 0.5%. The highest unemployment rate of 18% is registered in Armenia, where it almost doubled year-on-year. Moldova has the lowest ratio of employment to population with only 41%. The most favourable combination of unemployment (0.5%) and employed population ratio (63.7%) is evident in Belarus.

## RESILIENT INFRASTRUCTURE, SUSTAINABLE INDUSTRIALISATION AND INNOVATION

As with agriculture value added, both industry value added and services value added indicators measure the effectiveness of production and the productivity of the workforce, and also demonstrate the availability and quality of necessary production equipment, technology, and innovative business models.

The highest industry value added is recorded in Azerbaijan, followed by Belarus, while Moldova has the lowest industry value added at 17.9%. Services value added is highest in Moldova, followed by Georgia, with the lowest figure in Azerbaijan. Services value added exceeds industrial value added in all the countries except Azerbaijan. The figures for Georgia, Armenia and Ukraine range from 22-25.3% for industry value added and 54.7-65.4% for services value added.

All six countries have low levels of research and development (R&D) expenditures. Belarus has the highest rate at 0.7% of GDP. Ukraine spends 0.6%, Moldova spends 0.4%, Georgia and Armenia 0.3%, and Azerbaijan 0.2%. In the *Global Innovation Index*, rates range from 30.2% in Azerbaijan to 38.5% in Ukraine.<sup>60</sup>

58 *Gender Inequality Index*, <http://hdr.undp.org/en/data>  
59 World Bank data: <https://data.worldbank.org/indicator/NV.AGR.TOTL.ZS>

60 *Global Innovation Index*, <https://www.globalinnovationindex.org/>



Internet use ranges from 52.5% of the population in Ukraine to 78.2% in Azerbaijan, while mobile broadband is booming, ranging from 108 subscriptions per 100 population in Moldova to 144 in Ukraine. The quality of overall infrastructure is best in Belarus, Georgia and Ukraine (4.6-4.7 out of a maximum of 7), 4.5 in Azerbaijan and 4.3 in Armenia, but substantially lower at 3.3 in Moldova.<sup>61</sup>

## ENSURE SUSTAINABLE CONSUMPTION AND PRODUCTION PATTERNS

The EaP countries – with a lower level of consumption – all have a material footprint several times lower than EU member states, but the levels are gradually increasing. The poorest performing EaP country, Ukraine, has a footprint of 12 kg per US\$ of GDP, followed by Georgia on 9.1 kg/US\$. Armenia and Azerbaijan have lower footprints at 8.2 kg/US\$ and 6.3kg/US\$ respectively. The lowest material footprints are evident in Belarus (0.1kg/US\$) and Moldova (1kg/US\$).

A new SDG indicator of food loss, which will be introduced by the UN's Food and Agriculture Organization (FAO) in the coming period, might be included into future editions of the EaP Index.

In terms of sustainable public procurement, the drafting of regulations is underway in all countries except Georgia.

## RESOURCE EFFICIENCY AND STATE OF ENVIRONMENT

The worst *Water Exploitation Index* scores of more than 50% continue to be seen in Azerbaijan and Armenia (the *Water Exploitation Index* measures water withdrawal as a percentage of annual long-term water

flow).<sup>62</sup> In contrast, the index values fell further in Georgia (to 3.3%), Moldova (15%) and Ukraine (9.8%). Belarus continues as the best placed EaP country with 3.2%, although with a significant slip from 1% in the previous Index. Municipal waste intensity was reduced in Belarus, Moldova and Ukraine, although Moldova remains the worst performer in the group, with almost 30kg/capita annually. Armenia witnessed a slight increase in municipal waste production. Nevertheless, the share of municipal waste recycled remains very low in the six countries. Belarus – with 15% – and Moldova – with 10% – are leading, but remain a long way behind recycling rates in EU countries.

The pressure on the environment is growing from the increasing discharge of non-treated water in the majority of EaP countries – at its highest in Moldova, where the share of non-treated waste waters in annual waste water discharge is 82.8%. In Azerbaijan, the discharge is only 5.3%, while in Belarus almost all waste water is treated. There is a trend of carbon emission reduction in some EaP economies, but higher levels of sulphur dioxide and nitrogen oxide emissions suggest that the negative picture on emissions has not changed much yet.

An extremely high level of soil erosion is present in Moldova with 43%. Other countries have levels in a range between 27% (Belarus) and 37% (Azerbaijan). The pesticides input level has grown in Moldova to 49.9kg/hectare. While other countries have shown a slight decline in the level of application of chemicals for agriculture, it would be premature to conclude whether this development is based on a move to more organic production.

With forestation, a slight growth in forested areas is evident for Belarus, but the opposite trend is apparent in Georgia and, even more markedly, in Azerbaijan. Ukraine enlarged the territory of nature protected areas by 5% and Georgia by 0.6%, while other countries remain unchanged.

<sup>61</sup> Quality of overall infrastructure (1-7), <https://www.statista.com/statistics/264753/ranking-of-countries-according-to-the-general-quality-of-infrastructure/>

<sup>62</sup> *Water Exploitation Index*, <https://www.eea.europa.eu/data-and-maps/indicators/water-exploitation-index>

## EDUCATION AND CULTURE POLICY

Georgia, followed closely by Moldova and Ukraine, is the frontrunner in education policy. All three AA signatories, as well as Armenia, have legislation in place on universities that is in line with EU standards.

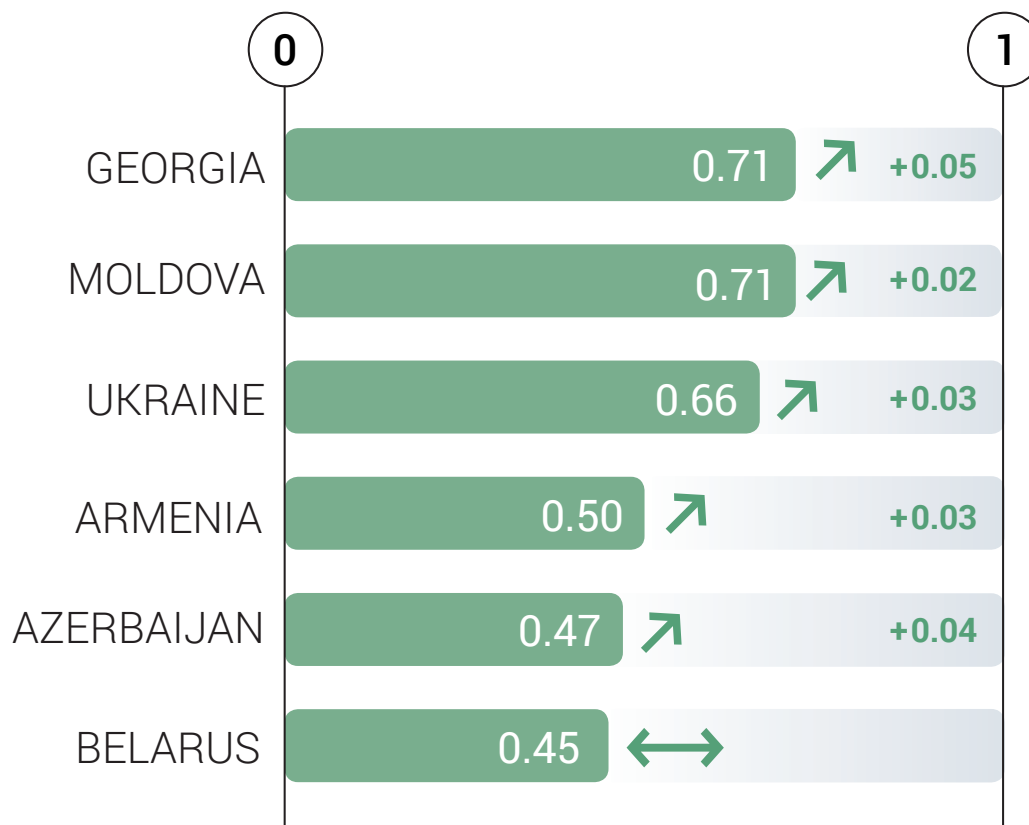
Five EaP countries (the exception is Belarus) implement the European Credit Transfer System (ECTS) and the Diploma Supplement (DS), have developed a National Qualification Framework (NQF), and have a national policy document on life-long learning. In the case of Moldova, the NQF legislation, developed in 2016, came into effect on 1 December 2017.

| EDUCATION AND CULTURE POLICY |      |   |         |
|------------------------------|------|---|---------|
| RANK                         | 2017 |   | 2015-16 |
| UKRAINE                      | 0.97 | ↗ | 0.95    |
| GEORGIA                      | 0.89 | ↘ | 0.95    |
| ARMENIA                      | 0.83 | ↗ | 0.80    |
| AZERBAIJAN                   | 0.78 | ↔ | 0.78    |
| MOLDOVA                      | 0.74 | ↘ | 0.82    |
| BELARUS                      | 0.59 | ↗ | 0.47    |

On culture policy, Ukraine is the frontrunner, followed by Georgia and Azerbaijan. On youth policy, Ukraine, Belarus and Armenia share the leading position, each providing legal status to youth work and volunteering, and conducting national youth research on a regular basis.



## LINKAGE DIMENSION



Linkage encompasses the international linkages between business, civil society, citizens and governments in EaP countries and EU countries. This dimension consists of three sections:

**INTERNATIONAL SECURITY, POLITICAL DIALOGUE AND CO-OPERATION** – page 133 – which measures how EaP and EU governments coalesce in crucial areas of international security, defence, border management and development. Intergovernmental contacts are conceptualised as a part of an emerging “European society”, not as a (facilitating or constraining) framework for societal linkages. This section also considers the extent to which the EaP states control their own security as sovereign actors.

**SECTORAL CO-OPERATION AND TRADE FLOWS** – page 139 – measures the extent to which trade and investment integrate the EaP countries with the EU. The integration of energy supplies/markets and the density of transport links are assessed separately, since these two sectors constitute crucial infrastructures for economic integration.

**CITIZENS IN EUROPE** – page 145 – measures the extent of mobility, migration and communication flows of citizens between EaP countries and the EU. Societal linkages are not only conceived as a set of bilateral EU-EaP relations following a hub-and-spokes or centre-periphery model. Rather, intra-EaP linkages are also taken into account. The Index focuses on migration as a process leading to deeper European integration and, ultimately, the full freedom of movement. Migration is not understood here as a threat to the EU’s internal security or as an EU policy to prevent illegal migration with the help of EaP states.

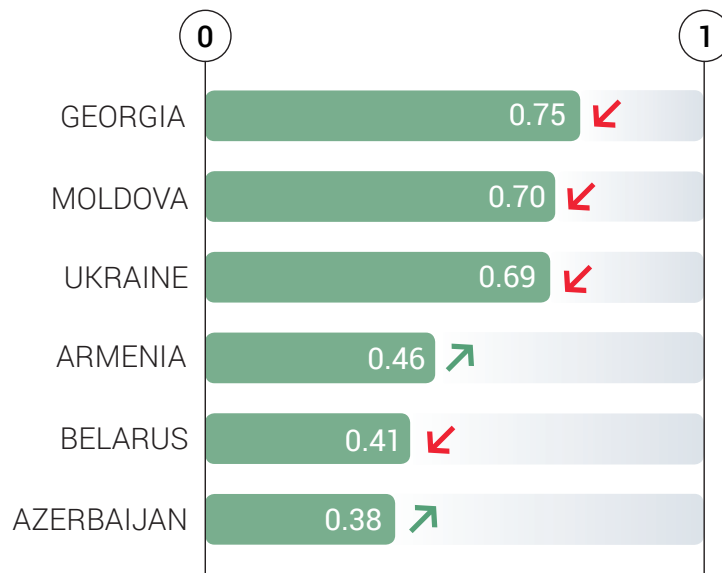




# INTERNATIONAL SECURITY, POLITICAL DIALOGUE AND CO-OPERATION



## International Security, Political Dialogue and Co-operation



International Security, Political Dialogue and Co-operation measures how EaP and EU governments coalesce in crucial areas of international security, defence, border management and development. Intergovernmental contacts are conceptualised as a part of an emerging "European society", not as a (facilitating or constraining) framework for societal linkages. This section also considers the extent to which the EaP states control their own security as sovereign actors. The indicators contributing to the scores of this section are:

- Political Dialogue with the EU
- Intergovernmental Co-operation and Engagement in EaP Multilateral Events/ Panels
- International Security Co-operation
- Border Security
- EU Funding of Security Projects
- Development Assistance from the EU and EU Member States

## POLITICAL DIALOGUE WITH THE EU

Following the previous two years when the most intense co-operation between the EU and individual EaP countries focused on the three countries that had signed Association Agreements (AAs) with the EU – Georgia, Moldova and Ukraine – the year 2017 saw the culmination of negotiations between Armenia and the EU on the Comprehensive and Enhanced Partnership Agreement (CEPA), which was completed in September 2017.

In International Security, Political Dialogue and Co-operation in the Index 2017, Armenia nevertheless remained closer to the lowest placed Belarus and Azerbaijan than to the three AA countries, led by Georgia, then Moldova and Ukraine, which slipped to third place from the leading position in the Index 2015-2016.

Ukraine, Moldova and Georgia intensified the implementation of their AAs with the EU, and Georgia and Ukraine began to enjoy visa-free travel to the Schengen countries (from March and June 2017 respectively).

Azerbaijan's protracted talks with the EU over a Strategic Modernisation Partnership (SMP) agreement continued, leaving the 1999 Partnership and Co-operation Agreement as the main framework agreement between Baku and Brussels, while Belarus lacked any framework agreement with the EU.

For Armenia, the CEPA resurrected much of the AA the country had finalised with the EU before withdrawing at the last minute in September 2013 and instead joining the Russia-led Eurasian Customs Union, which was converted into the Eurasian Economic Union (EAEU) in 2015. Through the CEPA, Armenia sought to accommodate its EAEU membership with forging closer non-trade links with the EU.

### POLITICAL DIALOGUE WITH THE EU

| RANK       | 2017 | 2015-16 |
|------------|------|---------|
| UKRAINE    | 0.84 | 0.91    |
| MOLDOVA    | 0.67 | 0.69    |
| GEORGIA    | 0.60 | 0.76    |
| AZERBAIJAN | 0.42 | 0.51    |
| ARMENIA    | 0.34 | 0.48    |
| BELARUS    | 0.13 | 0.12    |

Ukraine was once again the frontrunner in political dialogue with the EU, followed by Moldova and Georgia. Among the non-AA countries, Azerbaijan scored the highest, followed by Armenia, while Belarus lagged far behind. Ukraine remained the only country that held an annual summit with the EU, and the leading EaP country in terms of high-level visits to Ukraine by top EU officials and visits by Ukraine's officials to Brussels. Ukraine was the focus of 23 European External Action Service statements in 2017, followed by second-placed Azerbaijan with 19 (including some statements critical of the government's human rights record).

In the reporting period, the EU-Georgia Association Committee met once, the same as the corresponding Committees for Ukraine and Moldova. The equivalent Co-operation Committees in the non-AA countries did not meet in the case of Armenia, Azerbaijan or Belarus in 2017. The AA countries' subcommittees met 12 times in the case of Moldova, 11 in the case of Ukraine, and seven in the case of Georgia.

Political parties' representation among the political groupings of the European Parliament were in place in all six countries, ranging from nine affiliated parties in Moldova and eight in Georgia to six in each of Ukraine, Belarus and Armenia, and three in Azerbaijan.

## INTERGOVERNMENTAL CO-OPERATION AND ENGAGEMENT IN EAP MULTILATERAL EVENTS/PANELS

All six countries participated in the various different formats for co-operation and engagement in EaP multilateral events, with the exception of the Euronest meeting of EaP parliamentarians with MEPs, from which Belarus remained excluded (as Belarus has not met the political requirements in the Euronest Parliamentary Assembly's Constituent Act).

Moldova, followed by Georgia, led in overall co-operation and engagement, but all six countries' governments participated in the annual EaP-EU foreign ministers' meeting and in the twice yearly EaP thematic platform meetings.

At the civil society level, all six countries continued to have National Platforms within

| INTERGOVERNMENTAL CO-OPERATION AND ENGAGEMENT IN EAP MULTILATERAL EVENTS/PANELS |      |   |         |
|---|------|---|---------|
| RANK  | 2017 |   | 2015-16 |
| MOLDOVA   | 0.99 | ↗ | 0.88    |
| GEORGIA   | 0.98 | ↗ | 0.94    |
| ARMENIA   | 0.96 | ↗ | 0.93    |
| UKRAINE   | 0.94 | ↗ | 0.90    |
| AZERBAIJAN  | 0.92 | ↗ | 0.73    |
| BELARUS   | 0.76 | ↘ | 0.77    |

the Eastern Partnership Civil Society Forum. The Georgian National Platform was the most active in terms of the number of meetings and events it organised (with 21, closely followed by Ukraine with 19 and Armenia with 18), while the Moldovan National Platform published the most reports and statements during 2017 (22, followed by Georgia with 18 and Armenia with 14).

## INTERNATIONAL SECURITY CO-OPERATION

The security situation remained tense throughout the EaP region with six frozen or low-intensity conflicts (Transnistria in Moldova, Abkhazia and South Ossetia in Georgia, Nagorno Karabakh in Azerbaijan, and since 2014 Crimea and the secessionist-held territories of Donetsk and Luhansk oblasts in Ukraine).

In the area of International Security Co-operation as a whole, Georgia and Ukraine headed the Index 2017 scores, followed by Armenia and Moldova, but in terms of co-operation with the EU's Common Foreign and Security Policy (CFSP) and Common Security and Defence Policy (CSDP), Ukraine was the clear leader, followed by Georgia and Moldova. Ukraine led on alignment with the EU's CFSP statements, expressing support for 89% of the statements where it was invited to do so.

On the other hand, when it came to participation in CSDP missions, Georgia participated in EU training missions in Mali and the Central African Republic. Moldova participated in one CSDP mission, while the

| INTERNATIONAL SECURITY CO-OPERATION |      |   |         |
|-------------------------------------|------|---|---------|
| RANK                                | 2017 |   | 2015-16 |
| UKRAINE                             | 0.64 | ↘ | 0.68    |
| GEORGIA                             | 0.64 | ↗ | 0.57    |
| ARMENIA                             | 0.48 | ↗ | 0.44    |
| MOLDOVA                             | 0.46 | ↗ | 0.39    |
| AZERBAIJAN                          | 0.32 | ↗ | 0.22    |
| BELARUS                             | 0.17 | ↔ | 0.17    |

remaining four EaP countries participated in none. Moreover, Georgia was the only EaP country to hold consultations with both the EU Military Committee (EUMC) and the EU Political and Security Committee (PSC) in 2017. Ukraine and Moldova held consultations with the EUMC, while Armenia and Azerbaijan both met with the PSC. Belarus had consultations with neither. In the previous period, Ukraine had been the only EaP member to hold consultations with both EU committees.

In 2017 Ukraine continued to be the only EaP country with an Administrative Agreement with the European Defence Agency. Since 2014, Ukraine has been a host country to a CSDP mission, the EU Advisory Mission (EUAM)

Ukraine, established after the onset of the conflict in Eastern Ukraine with the objective of strengthening Ukraine's civilian security sector.

Both Ukraine and Moldova had OSCE missions on their territory, but the OSCE mission in Armenia came to an end in 2017 following the veto of fellow OSCE member, Azerbaijan, over the mission's budget, resulting in its closure. Five EaP countries participated in either one or two NATO operations or missions during 2017. Belarus was the only country that did not.

The arms race in the region abated a little, following a period of rising military spending. Between 2015-2017, Ukraine's military budget fell from 4% to 3.4% of GDP, while in Armenia it fell from 4.2% to 4%, and in Azerbaijan from 5.6% to 4%.

Armenia had by far the largest defence force per capita, followed by Georgia and Azerbaijan. Moldova had the smallest defence force, both in total numbers and per capita.

## BORDER SECURITY

All six EaP countries have an agreement with FRONTEX, the EU's border and coast guard agency. Ukraine has the closest linkages when it comes to border security, followed by Moldova and Belarus – notably, these three countries all have borders with the EU.

The size of the territories outside government control (owing to the conflicts cited earlier) ranged from 7% in Ukraine and 12% in Moldova to 14% in Azerbaijan and 18% in Georgia. Russian armed forces were present in the conflict zones in Ukraine, Moldova and Georgia. In the case of Belarus and Armenia, Russian armed forces were stationed on their territory with the government's consent. The borders of Armenia with Turkey and Iran were controlled by Russian border troops – in line with a Russian-Armenian agreement in place since 1992. Armenian border guards controlled the Armenian-Georgian border, while the

| BORDER SECURITY |      |   |         |
|-----------------|------|---|---------|
| RANK            | 2017 |   | 2015-16 |
| UKRAINE         | 0.81 | ↓ | 0.83    |
| MOLDOVA         | 0.74 | ↓ | 0.77    |
| BELARUS         | 0.73 | ↑ | 0.71    |
| GEORGIA         | 0.64 | ↑ | 0.58    |
| AZERBAIJAN      | 0.48 | ↑ | 0.31    |
| ARMENIA         | 0.37 | ↓ | 0.51    |

border with Azerbaijan remained closed owing to the ongoing military conflict over Nagorno Karabakh.

Of the three EaP countries with sea borders (Ukraine, Georgia, and Azerbaijan), only Azerbaijan had full control of its maritime boundaries. Although internationally recognised as part of Ukraine and Georgia, the sea borders of Crimea and Abkhazia respectively were not under the control of the Ukrainian and Georgian governments.

## EU FUNDING OF SECURITY PROJECTS

In addition to the EU Monitoring Mission in Georgia, the EU provided border security support to Ukraine and Moldova through the EU Border Assistance Mission to Moldova and Ukraine (EUBAM). The EU also funded the destruction of PFM-1 series ammunition (anti-infantry land mines) in Belarus.

Georgia was the leading recipient of EU funding related to security, and became a pilot country as part of the EU strategy for Security Sector Reform. The EU-Georgia Informal Strategic Dialogue took place in October 2017, focusing

| EU FUNDING OF SECURITY PROJECTS |      |   |         |
|---------------------------------|------|---|---------|
| RANK                            | 2017 |   | 2015-16 |
| GEORGIA                         | 1    | ↔ | 1       |
| MOLDOVA                         | 0.72 | ↓ | 1       |
| UKRAINE                         | 0.54 | ↓ | 1       |
| BELARUS                         | 0.50 | ↓ | 1       |
| ARMENIA                         | 0    | ↔ | 0       |
| AZERBAIJAN                      | 0    | ↔ | 0       |







on areas including hybrid threats.<sup>63</sup> The EU also supported modernisation of Georgia's border infrastructure with Azerbaijan.

63 [https://eeas.europa.eu/delegations/georgia/33774/european-union-and-georgia-hold-strategic-security-dialogue\\_en](https://eeas.europa.eu/delegations/georgia/33774/european-union-and-georgia-hold-strategic-security-dialogue_en)

## DEVELOPMENT ASSISTANCE FROM THE EU AND EU MEMBER STATES

The leading EaP country in the Index 2017 as a beneficiary of development assistance from multiple EU sources was Georgia, closely followed by Moldova and Armenia. In terms of EU member states' financial assistance (either bilaterally or through contributions to non-EU multilateral assistance), the leading recipient was Armenia.

Under the EU's European Neighbourhood Instrument, Georgia was the main beneficiary,

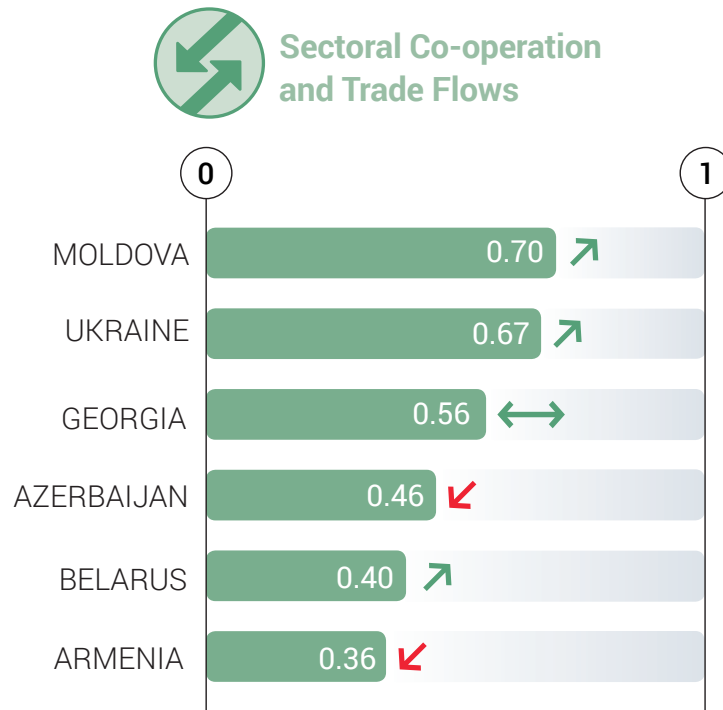
| DEVELOPMENT ASSISTANCE FROM THE EU AND EU MEMBER STATES |  |         |
|---|--|---------|
| RANK  | 2017   | 2015-16 |
| GEORGIA   | 0.63  | 0.69    |
| MOLDOVA   | 0.60  | 0.55    |
| ARMENIA   | 0.60  | 0.34    |
| UKRAINE   | 0.37  | 0.34    |
| BELARUS   | 0.17  | 0.09    |
| AZERBAIJAN  | 0.13  | 0.09    |

closely followed by Moldova and Ukraine, while Ukraine was the leading recipient when it came to macroeconomic assistance from the EU.





# SECTORAL CO-OPERATION AND TRADE FLOWS



Sectoral Co-operation and Trade Flows measures the extent to which trade and investment integrate the EaP countries with the EU. The integration of energy supplies/markets and the density of transport links are assessed separately, since these two sectors constitute crucial infrastructures for economic integration. The indicators contributing to the scores of this section are:

- Trade with the EU: Commodities
- Investment and Loans from the EU
- Trade with the EU: Services
- Trade Defence Instruments
- Energy Interdependence
- Transport: Integration with Trans-European Networks
- Environment Legislation and Co-operation

## TRADE WITH THE EU: COMMODITIES

The EU has remained the key partner of the EaP countries in trade in goods in 2015-2017. The EU was the largest partner for four out of six countries, namely for Azerbaijan, for which the EU is a large energy consumer, and for Ukraine, Moldova and Georgia, which are all implementing Association Agreements, incorporating Deep and Comprehensive Free Trade Area (DCFTAs), with the EU. For Belarus and Armenia, members of the Russia-led trade bloc, the Eurasian Economic Union (EAEU), the EU is the second largest trading partner after Russia.

Russia has remained an important partner for all EaP countries. In 2015-2017, it was the second largest partner after the EU for Ukraine and Moldova and the third – after the EU and Turkey – for Georgia and Azerbaijan. China is the largest non-neighbouring trade partner of the EaP countries, accounting for 4-10% of goods trade.

The relative importance of the goods trade with the EaP countries remains small for the EU. The aggregate share of the six countries from the perspective of the EU was 1.8% in 2015-2017, and Ukraine accounted for more than 50% of this share.

There were no major changes in the trade regime between the EaP countries and the EU in 2017, although some important developments affected the future trade in goods. In the framework of the DCFTAs, the gradual mutual tariff liberalisation in trade with the EU progressed in Ukraine and Moldova (the DCFTA with Georgia envisaged the immediate and complete elimination of import duties

### TRADE WITH THE EU: COMMODITIES

| RANK       | 2017 |   | 2015-16 |
|------------|------|---|---------|
| UKRAINE    | 0.84 | ↗ | 0.74    |
| MOLDOVA    | 0.83 | ↗ | 0.71    |
| GEORGIA    | 0.72 | ↗ | 0.61    |
| AZERBAIJAN | 0.47 | ↘ | 0.49    |
| ARMENIA    | 0.40 | ↗ | 0.37    |
| BELARUS    | 0.19 | ↗ | 0.18    |

after the launch of the agreement in 2014). Georgia, Moldova and Ukraine continue to harmonise their product safety systems with EU norms and practices that also contribute to the development of trade.

In September 2017, the last of the three Association Agreements – the Agreement between the EU and Ukraine – finally entered fully into force after consensus was reached with the final EU member state, the Netherlands, and the Dutch Senate ratified the treaty on 30 May 2017.<sup>64</sup> Furthermore, in October 2017, the EU introduced new temporary autonomous trade measures for Ukraine with a view to speeding up and complementing the DCFTA-related market opening.

<sup>64</sup> On 30 May 2017, the Dutch senate approved the EU Association Agreement with Ukraine following amendments made at the EU level to take into consideration the Dutch referendum vote in April 2016 against the agreement. The treaty had come into effect partially earlier, but the ratification in the Netherlands necessitated amendments to the treaty to the effect that it did not make Ukraine a candidate for EU membership, did not entitle Kyiv to financial aid or military assistance from the bloc, and did not give Ukrainians the right to live and work in EU member states. *After a Year's Delay, Dutch Approve Ukraine Treaty*, Reuters, 30 May 2017, <https://uk.reuters.com/article/uk-eu-ukraine-netherlands/after-a-years-delay-dutch-approve-ukraine-treaty-idUKKBN18Q1J5>

### SHARE OF COUNTRY'S GOODS TRADE, % (2015-2017 AVERAGE)

| TRADE PARTNER   | UKRAINE     | MOLDOVA     | BELARUS     | GEORGIA     | ARMENIA     | AZERBAIJAN  |
|-----------------|-------------|-------------|-------------|-------------|-------------|-------------|
| EU-28           | <b>39.5</b> | <b>54.2</b> | 25.6        | <b>29.3</b> | 24.2        | <b>39.4</b> |
| RUSSIA          | 13.3        | 12.4        | <b>48.9</b> | 9.1         | <b>27.0</b> | 9.9         |
| OTHER EAEU      | 5.9         | 4.0         | 1.2         | 5.3         | 0.9         | 1.2         |
| TURKEY          | 4.3         | 5.7         | 1.1         | 15.4        | 3.3         | 11.1        |
| CHINA           | 8.4         | 6.8         | 4.1         | 7.9         | 9.7         | 4.9         |
| IRAN            | 0.8         | 0.0         | 0.1         | 1.5         | 4.9         | 1.1         |
| OTHER COUNTRIES | 27.8        | 16.9        | 19.0        | 31.5        | 30.0        | 32.4        |

Source: UN ComTrade

In November 2017, Armenia and the EU signed the Comprehensive and Enhanced Partnership Agreement (CEPA). Although the CEPA does not contain free trade provisions, it does envisage regulatory harmonisation to strengthen trade links. Armenia has also remained a beneficiary of the GSP+.<sup>65</sup>

65 GSP+ is a special incentive arrangement for Sustainable Development and Good Governance, granting “full removal of tariffs on over 66% of EU tariff lines”. <http://trade.ec.europa.eu/tradehelp/gsp>

Out of six EaP countries, only two – Azerbaijan and Belarus – remain outside the World Trade Organization (WTO). Both countries submitted their applications in the 1990s, but the negotiations have not made much progress. In 2018, the EU launched a two-year project aimed to support Azerbaijan’s WTO talks.<sup>66</sup>

66 [https://www.wto.org/english/thewto\\_e/acc\\_e/nl\\_e/2018\\_07\\_acc\\_newsletter\\_e.pdf](https://www.wto.org/english/thewto_e/acc_e/nl_e/2018_07_acc_newsletter_e.pdf)

#### FOREIGN DIRECT INVESTMENT. SHARE OF FDI FROM DIFFERENT COUNTRIES/ GROUPS OF COUNTRIES, %, LATEST AVAILABLE YEAR

| SOURCE COUNTRY/ GROUP OF COUNTRIES | UKRAINE     | MOLDOVA     | BELARUS     | GEORGIA    | ARMENIA    | AZERBAIJAN  |
|------------------------------------|-------------|-------------|-------------|------------|------------|-------------|
| EU-28                              | <b>70.2</b> | 62.8        | <b>31.0</b> | 39.9       | <b>7.2</b> | <b>46.6</b> |
| RUSSIA                             | 11.8        | <b>27.4</b> | 57.0        | <b>3.7</b> | 53         | 4.0         |
| OTHER EAEU                         | 2.8         | 0.02        | 0           | 2.13       | 0          | 0           |
| TURKEY                             | 0.8         | 1.02        | 0           | 8.56       | 0          | 17.0        |
| CHINA                              | 0           | 0.05        | 1.0         | 3.27       | 0          | 2.0         |
| IRAN                               | 0           | 0.01        | 0           | 0.15       | 0          | 8.0         |

Sources: for Ukraine and Moldova – national statistics, for Belarus, Georgia, Armenia and Azerbaijan – UNCTAD Bilateral FDI Report

#### INVESTMENT AND LOANS FROM THE EU

The role of the EU as a source of foreign direct investment (FDI) to the countries of the region varies quite significantly. It is the dominant investor for Ukraine and Moldova, accounting for 60-70% of the FDI inward stock, and the largest investor into Georgia and Azerbaijan with a share of 40-50%. For Belarus, the EU – albeit the second largest investor after Russia – accounts for about one-third of FDI, while EU direct investment into Armenia accounts for less than 10% of the total.

The inflow of loans from the EU is also unevenly distributed among countries. In absolute terms, Ukraine is the largest recipient of loans from the European Investment Bank (EIB), the stock of which reached €5.5bn by the end of 2017. Ukraine also featured 51 projects, the highest number among the EaP partners. On the other

| INVESTMENT AND LOANS FROM THE EU |      |   |         |
|----------------------------------|------|---|---------|
| RANK                             | 2017 |   | 2015-16 |
| UKRAINE                          | 0.52 | ↘ | 0.58    |
| MOLDOVA                          | 0.52 | ↗ | 0.28    |
| GEORGIA                          | 0.39 | ↗ | 0.32    |
| AZERBAIJAN                       | 0.32 | ↘ | 0.44    |
| ARMENIA                          | 0.23 | ↗ | 0.22    |
| BELARUS                          | 0.04 | ↗ | 0       |

hand, Georgia is the largest recipient of EIB loans on a per capita basis, both in value and in the number of projects. As of December 2017, Georgia attracted €419 per capita of EIB loans compared with Moldova’s €227 per capita and €121 per capita in both Ukraine and Armenia. Moreover, Georgia features the highest growth in per capita stock of EIB loans in 2017 against 2015-2016.

## TRADE WITH THE EU: SERVICES

In terms of the importance of the EU as a partner in trade in services, the EaP countries can be divided into three groups. For Moldova, the EU is the dominant partner in the trade in services, accounting for over 70% of the total, and evenly balanced in terms of exports of services to the EU and imports of services from the EU, both accounting for over 70% of the total. For Ukraine and Belarus, the share of the EU in total trade in services is about one-third, with a much higher share in imports of services compared with exports of services. For the South Caucasus countries, the share of the EU in trade in services varies from 10% to 19%, largely because they have developed exports of tourist services, aimed at their neighbours,

### TRADE WITH THE EU: SERVICES

| RANK       | 2017 |   | 2015-16 |
|------------|------|---|---------|
| MOLDOVA    | 0.75 | ↔ | 0.75    |
| UKRAINE    | 0.39 | ↘ | 0.43    |
| BELARUS    | 0.35 | ↘ | 0.41    |
| GEORGIA    | 0.22 | ↗ | 0.21    |
| AZERBAIJAN | 0.08 | ↗ | 0.06    |
| ARMENIA    | 0.02 | ↘ | 0.03    |

but less so at the EU. Georgia is the only South Caucasus country that has a direct transport connection with the EU through the Black Sea. The absence of a direct land border with the EU hinders bilateral trade in transportation services between the EU and the South Caucasus countries.

## TRADE DEFENCE INSTRUMENTS

The application of trade defence instruments in bilateral trade between the EU and the EaP countries remained limited in 2017. The EaP countries do not have any registered trade disputes with the EU. The number of trade defence measures remained low, and there was no increase compared with the previous period. In 2017, the EU applied four final anti-dumping measures against EaP countries (one against Armenia, two against Belarus, and one against Ukraine), and there was one anti-dumping investigation – towards Ukrainian producers.

### TRADE DEFENCE INSTRUMENTS

| RANK       | 2017 |   | 2015-16 |
|------------|------|---|---------|
| MOLDOVA    | 1    | ↔ | 1       |
| GEORGIA    | 1    | ↔ | 1       |
| AZERBAIJAN | 1    | ↔ | 1       |
| ARMENIA    | 0.98 | ↔ | 0.98    |
| UKRAINE    | 0.93 | ↗ | 0.88    |
| BELARUS    | 0.79 | ↔ | 0.79    |

The application of trade defence measures against EU exports to EaP countries was even lower: only Belarus applied anti-dumping measures against EU producers in 2017.

## ENERGY INTERDEPENDENCE

The EaP countries have gradually strengthened their energy interdependence with the EU through international treaties, trade flows and infrastructure interconnections.

Three of the six EaP countries – Georgia, Moldova and Ukraine – are parties to the European Energy Community, while Armenia has observer status. Georgia joined most recently – in July 2017 – after having had

### ENERGY INTERDEPENDENCE

| RANK       | 2017 |   | 2015-16 |
|------------|------|---|---------|
| AZERBAIJAN | 0.89 | ↗ | 0.87    |
| UKRAINE    | 0.84 | ↗ | 0.77    |
| MOLDOVA    | 0.82 | ↗ | 0.80    |
| GEORGIA    | 0.82 | ↘ | 0.89    |
| BELARUS    | 0.73 | ↗ | 0.70    |
| ARMENIA    | 0.35 | ↗ | 0.30    |

observer status since 2007. The EU-Georgia Association Agreement implied the membership of Georgia in the Energy Community as the



Agreement contains commitments in the energy and environment spheres, in particular the implementation of the third energy package of the EU.

In 2017, two EaP countries were net exporters of energy products to the EU, namely Azerbaijan and Belarus. For Azerbaijan, energy products, primarily crude oil and natural gas, accounted for about 98% of the country's total exports to the EU. The energy exports of Belarus, mostly petroleum products, accounted for close to 58% of total exports to the EU. Ukraine, Moldova and Georgia are net importers of energy products from the EU, although the share of the EU in their respective energy imports remained quite moderate at 14-

16%. Armenia has very limited trade in energy products with the EU, relying on energy imports from Russia.

In terms of physical infrastructure, all EaP countries have developed interconnections in gas and electricity sectors with at least one other EaP country. Interconnections with the EU are in place for Ukraine, Moldova and Belarus, which have direct land borders with the EU, while indirect interconnections between the South Caucasus countries and the EU are in the process of development. Armenia, as a land-locked country with only two open borders (with Georgia and Iran), has the least developed infrastructural interconnections with the EU.

## TRANSPORT: INTEGRATION WITH TRANS-EUROPEAN NETWORKS

Transport interconnections with the EU varies depending on the EaP country and the type of transportation. Only one EaP country – Georgia – has a fully functional Common Aviation Area (CAA) with the EU. Moldova has signed an agreement on accession to the CAA, but it is applied only provisionally as ratification procedures have not yet been completed.

Ukraine completed talks several years ago, but the agreement has still not been signed, partly due to the Gibraltar issue. Armenia has completed talks regarding the CAA in 2017, but the agreement is still subject to internal procedures before signature. Azerbaijan is negotiating an agreement, while Belarus has not yet embarked on the process.

Multimodal transport corridors with the EU are most developed in Ukraine, and least developed

| TRANSPORT: INTEGRATION WITH TRANS-EUROPEAN NETWORKS |      |   |         |
|---|------|---|---------|
| RANK  | 2017 |   | 2015-16 |
| MOLDOVA   | 0.42 | ↗ | 0.21    |
| GEORGIA   | 0.33 | ↘ | 0.50    |
| UKRAINE   | 0.25 | ↘ | 0.31    |
| ARMENIA   | 0.25 | ↘ | 0.50    |
| AZERBAIJAN  | 0.17 | ↘ | 0.25    |
| BELARUS   | 0    | ↔ | 0       |

in Armenia (due to its land-locked geography and the fact that two of its four borders are closed).

All EaP countries suffer from deficiencies in their capacity to efficiently move goods and connect with international markets. Ukraine has the best result, ranking 80th out of 160 countries thanks to developed tracing and tracking systems and timeliness of deliveries, while Armenia has the lowest ranking, suffering from the low quality of logistics services and competences.

## LOGISTICS PERFORMANCE INDEX, RANK

|            |      | OVERALL LPI RANK | CUSTOMS | INFRA-STRUCTURE | INTERNATIONAL SHIPMENTS | LOGISTICS QUALITY AND COMPETENCE | TRACKING AND TRACING | TIMELINESS |
|------------|------|------------------|---------|-----------------|-------------------------|----------------------------------|----------------------|------------|
| UKRAINE    | 2016 | 80               | 116     | 84              | 95                      | 95                               | 61                   | 54         |
| MOLDOVA    | 2016 | 93               | 99      | 100             | 94                      | 103                              | 85                   | 86         |
| BELARUS    | 2016 | 120              | 136     | 135             | 92                      | 125                              | 134                  | 96         |
| GEORGIA    | 2016 | 130              | 118     | 128             | 131                     | 146                              | 112                  | 117        |
| ARMENIA    | 2016 | 141              | 148     | 122             | 146                     | 137                              | 147                  | 139        |
| AZERBAIJAN | 2014 | 125              | 82      | 68              | 113                     | 149                              | 148                  | 143        |

Source: <https://lpi.worldbank.org/>

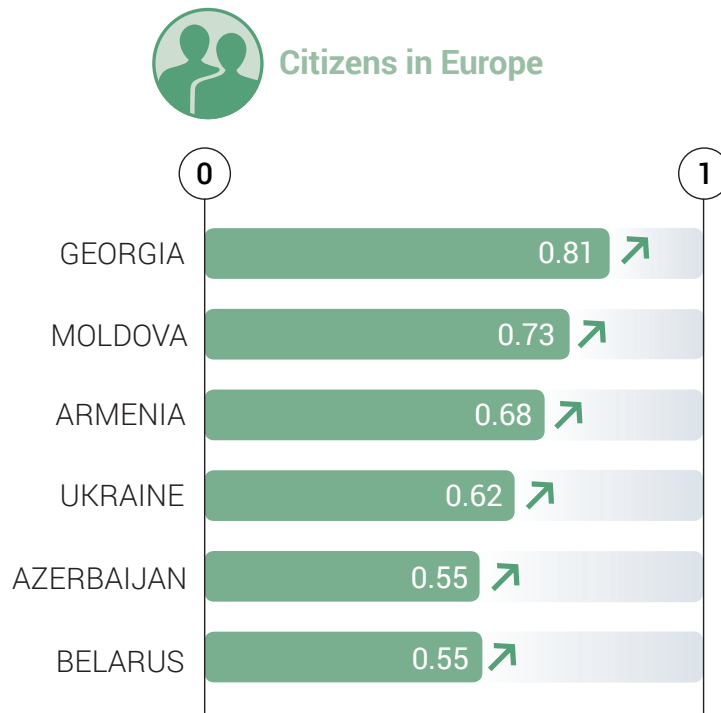
## ENVIRONMENT LEGISLATION AND CO-OPERATION

The linkages of the EaP countries with the EU in the sphere of the environment are quite complex. On the one hand, most EaP countries have joined key environment-related international conventions, as well as having signed multiple bilateral treaties with the EU. Five EaP countries – the exception is Georgia – have joined the Convention on Environmental Impact Assessment in a Transboundary Context (ESPOO Convention), and all of them are parties to the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters. The number of environment bilateral

| ENVIRONMENT LEGISLATION AND CO-OPERATION |      |   |         |
|--|------|---|---------|
| RANK                                     | 2017 |   | 2015-16 |
| UKRAINE                                  | 0.90 | ↗ | 0.74    |
| BELARUS                                  | 0.71 | ↗ | 0.37    |
| MOLDOVA                                  | 0.53 | ↘ | 0.54    |
| GEORGIA                                  | 0.43 | ↗ | 0.41    |
| ARMENIA                                  | 0.33 | ↘ | 0.35    |
| AZERBAIJAN                               | 0.31 | ↘ | 0.36    |

agreements with the EU varies from 33 in the case of Azerbaijan to 7 in the case of Armenia. On the other hand, the implementation of these agreements remains weak.

# CITIZENS IN EUROPE



Citizens in Europe measures the extent of mobility, migration and communication flows of citizens between EaP countries and the EU. Intra-EaP linkages are also taken into account. The Index focuses on migration as a process leading to deeper European integration and, ultimately, the full freedom of movement. Migration is not understood here as a threat to the EU's internal security or as an EU policy to prevent illegal migration with the help of EaP states. The indicators contributing to the scores of this section are:

- Cultural Exchange and Co-operation
- Affinity with the European Union
- Co-operation in Science and Education
- Mobility, including Academic and Student Mobility
- Digital and Information Society<sup>1</sup>

<sup>1</sup> In terms of Digital and Information Society, the final subsection in Citizens in Europe, it was not possible to measure change between 2015-16 and 2017, as the corresponding datasets have not been updated on an annual basis.

## CULTURAL EXCHANGE AND CO-OPERATION

The level of connectivity and people-to-people contacts between the EU and each of its eastern neighbours increased in 2017. The increase in the Index 2017 over the previous Index scores mainly reflects intensified cultural exchange and mobility. The increase is particularly stark for Georgia and Ukraine, both of whom reaped the benefits of the introduction of visa-free travel to the Schengen zone countries. Visa-free travel came into force for Georgians on 28 March 2017 and for Ukrainians on 11 June 2017. Moldovans have enjoyed visa-free travel to the EU since 28 April 2014.

Overall, the people-to-people indicators in the Index continued to reflect the countries' different levels of ambition in their relations with the EU, with Georgia, Moldova and Ukraine leading in most indicators, but with Armenia remaining on an equal footing in the case of cultural exchange and co-operation, co-operation in science and education, and academic and student mobility.

In 2017, all EaP countries registered increased co-operation with the EU in the cultural sphere, with the exception of Ukraine. Georgia continued to enjoy the highest rate of cultural

### CULTURAL EXCHANGE AND CO-OPERATION

| RANK       | 2017 | 2015-16 |
|------------|------|---------|
| GEORGIA    | 0.62 | 0.43    |
| MOLDOVA    | 0.44 | 0.32    |
| ARMENIA    | 0.40 | 0.27    |
| BELARUS    | 0.18 | 0.16    |
| AZERBAIJAN | 0.17 | 0.03    |
| UKRAINE    | 0.06 | 0.09    |

exchange with the EU, implementing the highest number of bilateral and multilateral projects within the framework of the Culture and Creativity Programme. Ukraine remained among the worst performers. Although Ukraine's participation in projects is at the level of other countries in absolute numbers, it is very small on a per capita basis.

Increased cultural exchange and co-operation can be expected for Armenia in the future, as the European Commission and Armenia signed a Memorandum of Understanding for the participation of Armenia in Creative Europe in March 2018.

## AFFINITY WITH THE EUROPEAN UNION<sup>67</sup>

In 2017, the year when both countries began to enjoy visa-free travel to the Schengen countries, Georgia and Ukraine recorded the highest increase in the percentage of people having a positive image of the EU (+7% for Georgia and +5% for Ukraine) according to the data published by EU Neighbours' Annual Survey Report "OPEN Neighbourhood".<sup>68</sup> The results

<sup>67</sup> The Affinity with the EU subsection was introduced for the Index 2017. As it was not included in previous indexes, any changes in this subsection will become evident only in future editions of the Index.

<sup>68</sup> *Annual Survey Report: Regional Overview – 2nd Wave (Spring 2017). OPEN Neighbourhood – Communicating for a Stronger Partnership: Connecting with Citizens Across the Eastern Neighbourhood*, EU Neighbours East/ECORYS, June 2017, [https://www.euneighbours.eu/sites/default/files/publications/2017-10/EUNEIGHBOURSeast\\_AnnualSurvey2017report\\_EaP\\_OVERVIEW\\_0.pdf](https://www.euneighbours.eu/sites/default/files/publications/2017-10/EUNEIGHBOURSeast_AnnualSurvey2017report_EaP_OVERVIEW_0.pdf)

### AFFINITY WITH THE EUROPEAN UNION

| RANK       | 2017 |
|------------|------|
| GEORGIA    | 1.00 |
| ARMENIA    | 1.00 |
| AZERBAIJAN | 1.00 |
| MOLDOVA    | 0.93 |
| UKRAINE    | 0.93 |
| BELARUS    | 0.76 |

of the survey highlight that there is a relatively positive image of the EU held in the EaP countries: Georgia emerges as the country most positively oriented towards the EU, with 59% of respondents sharing a positive image, followed by Armenia (48%), Azerbaijan (47%), Moldova (43%), Ukraine (43%), and Belarus (35%).

## CO-OPERATION IN SCIENCE AND EDUCATION

In 2017, all the EaP Countries recorded lower levels of co-operation in science and education with the EU. While the number of organisations participating in capacity building under Erasmus and the number of youth mobility projects increased, the increase was negatively offset by an overall decrease in the number of Horizon 2020 projects implemented and in the number of Erasmus+ projects.

Moldova and Georgia scored highest among the six EaP countries in this category. Georgia, Armenia and Moldova remained the countries with the highest participation in capacity-building projects under the Erasmus+ framework, while Armenia and Georgia recorded the highest number of

| CO-OPERATION IN SCIENCE AND EDUCATION |      |   |         |
|---------------------------------------|------|---|---------|
| RANK                                  | 2017 |   | 2015-16 |
| MOLDOVA                               | 0.65 | ↘ | 0.67    |
| GEORGIA                               | 0.63 | ↘ | 0.72    |
| UKRAINE                               | 0.52 | ↘ | 0.55    |
| ARMENIA                               | 0.48 | ↘ | 0.61    |
| BELARUS                               | 0.38 | ↘ | 0.41    |
| AZERBAIJAN                            | 0.27 | ↘ | 0.40    |

student participants in the Erasmus Mundus programme and in Erasmus + youth mobility projects per capita.

In 2017, Armenia and Azerbaijan did not have any Jean Monnet Chair or Academic Module, unlike previous years, when all six countries had at least one.

## MOBILITY, INCLUDING ACADEMIC AND STUDENT MOBILITY

The liberalisation of the EU's visa regime with respectively Moldova, Ukraine and Georgia has been one of the main drivers behind increased mobility and people-to-people contacts between EaP and EU citizens.

Across the three countries where visa requirements are still in place for travel to the EU, citizens of Belarus – as in previous years – were granted the highest number of Schengen visas per capita, while Azerbaijani citizens were granted the lowest number, seeing a 20% decrease in the number of EU visas issued. As for the regulatory framework for student mobility, Ukraine, Moldova and Georgia were joined by Armenia, where reforms took place in

| MOBILITY, INCLUDING ACADEMIC AND STUDENT MOBILITY |      |   |         |
|---|------|---|---------|
| RANK  | 2017 |   | 2015-16 |
| MOLDOVA   | 1    | ↔ | 1       |
| GEORGIA   | 1    | ↗ | 0.77    |
| UKRAINE   | 1    | ↗ | 0.47    |
| ARMENIA   | 0.75 | ↗ | 0.57    |
| BELARUS   | 0.63 | ↘ | 0.65    |
| AZERBAIJAN  | 0.50 | ↗ | 0.42    |

line with the Bologna process with the support of the Erasmus+ programme. In addition, article 94 of the EU-Armenia Comprehensive and Enhanced Partnership Agreement (CEPA), signed on 24 November 2017, includes provisions for reinforcing international academic co-operation, increasing participation in co-operation programmes of the EU, and improving student and teacher mobility.

# THE METHODOLOGY OF THE INDEX

## HOW IS THE EASTERN PARTNERSHIP INDEX ASSEMBLED?

The Eastern Partnership Index combines indicators from existing sources with first-hand empirical information gathered by local country experts within the networks underpinning the EaP Civil Society Forum (CSF). This general design makes it possible to use the best existing knowledge and to improve this body of knowledge by focused, systematic data-collection that benefits from the CSF's unique in-country insights and access to local knowledge in the EaP countries.

However, expert surveys are prone to subjectivity. Many existing expert surveys are characterised by a mismatch between “soft”, potentially biased, expert opinions and “hard” coding and aggregation practices that suggest a degree of precision rarely matched by the more complex underlying reality and its narrative representation in country reports. The expert survey underlying the Eastern Partnership Index therefore avoids broad judgments, and instead consists of specific and detailed fact-based questions, following a methodological strategy pioneered by the World Bank's *Doing Business* surveys.

Most survey questions ask for a “Yes” or “No” response to induce experts to take a clear position and to minimise misclassification errors. All questions invite experts to explain and thus to contextualise their responses. In addition, experts are requested to substantiate their assessment by listing sources.

The survey is implemented by six country and six sectoral co-ordinators who supervise and assist the data collection and evaluation in the following sectors: Deep and Sustainable Democracy; EU Integration and Convergence; Sustainable Development; International Security, Political Dialogue and Co-operation; Sectoral Co-operation and Trade Flows; Citizens in Europe.

Firstly, the country co-ordinators ask local experts to evaluate the situation in their country on the basis of the questionnaire. These experts and the sectoral co-ordinators

co-operate to ensure cross-country consistent assessments.

Secondly, the sectoral and country co-ordinators review the ratings and underlying rationales provided by the local experts. These reviews serve to clarify assessments where necessary, to compare the ratings across countries, and to revise ratings in consultation with local experts. This process facilitates a mutual understanding between experts and co-ordinators in order to improve the reliability and validity of the assessments.

Thirdly, sectoral and country co-ordinators draft narrative reports comparing the assessments for each country and (across all countries) sector. These drafts and the data scores are reviewed by a set of peer reviewers for each country. Finally, the data scores and narrative reports are reviewed and edited by the Index core team.

## HOW ARE THE INDEX SCORES CALCULATED?

As a rule, all questions to be answered with yes or no by the country experts are coded 1 = yes or positive with regard, for example, to EU integration and convergence, and 0 = negative with regard to integration and convergence (labelled “1-0”). If the expert comments and consultations with experts suggest intermediate scores, such assessments are coded as 0.5. For items requiring numerical data (quantitative indicators), the figures are coded through a linear transformation, using the information they contain about distances between country scores. (The same approach is taken with regard to assessing the other sector categories, e.g. deep and sustainable democracy or sustainable development.) The transformation uses the following formula:

$$y = \frac{x - x_{\min}}{x_{\max} - x_{\min}}$$

where  $x$  refers to the value of the raw data;  $y$  is the corresponding score on the 0-1 scale;  $x_{\max}$  and  $x_{\min}$  are the endpoints of the original scale, also called “benchmarks”. We



preferred this linear transformation over other possible standardisation techniques (e.g., z-transformation) since it is the simplest procedure.

For items scored with 0-1 or the intermediate 0.5, benchmarks are derived from the questions, assigning 1 and 0 to the best and worst possible performance. Since benchmarks for quantitative indicators often lack intuitive evidence, they have been defined by assigning the upper benchmark to a new EU member state.

## HOW WERE THE BENCHMARKS CHOSEN?

Lithuania was chosen as the benchmark country because it shares a post-Soviet legacy with EaP countries and, as the largest Baltic state, resembles EaP countries most with regard to population size. In addition, the selection of Lithuania reflects the idea that the target level for EaP countries should neither be a top performer nor a laggard, but rather an average new EU member state with both strengths and weaknesses. Being the sixth among 13 new EU member states in terms of economic wealth (per capita GDP in purchasing power standards in 2015 according to Eurostat), Lithuania epitomises this idea relatively well. Moreover, considerations of data availability favoured the choice of a single country rather than determining median values for all new EU member states.

The lower benchmark is defined by the value of the worst-performing EaP country in 2014. To enable a tracking of developments over time, we chose 2014 as the base year for defining benchmark values. This year represents a critical juncture for the EaP countries because three countries signed Association Agreements with the EU, and Ukraine was fundamentally transformed by the Revolution of Dignity, the annexation of Crimea, and the war in its eastern parts. In those rare cases when the values of an EaP country exceeded the upper benchmark or fell below the lower benchmark, the upper and lower scores were set to 1 and 0 respectively. All benchmark values and standardisation procedures are documented in an excel file that is available on the EaP Index website.

## HOW ARE THE DIFFERENT SUBCATEGORIES AGGREGATED?

The Eastern Partnership Index 2017 measures the situation of EaP countries as of December 2017, or the latest data available up until that point. Thus, the measurement is status-oriented, making it possible to identify the positions of individual countries compared with other countries for the different sectors and questions.

Aggregating scores is necessary to arrive at an Index or composite indicator. However, aggregation implies decisions about the relative weight of subcategories that need to be explained. The Eastern Partnership Index consists of two dimensions, which are further disaggregated in sections, subsections, categories, subcategories and items. The different levels of disaggregation are designated by numbers such as 1.1, 1.1.1, etc.

This hierarchical structure reflects theoretical assumptions about the subcategories and boundaries of concepts. One could, for example, argue that free and fair elections constitute the core of democracy and should therefore be given a higher weight than the category of Freedom of Speech and Assembly. Conversely, one could also argue that democracy in most EaP countries is mainly impaired by unaccountable governments and the lack of independent media, while elections are more or less well organised.

For example, we define the Deep and Sustainable Democracy section as consisting of nine subcategories:

- i. Democratic Rights and Elections, including Political Pluralism,
- ii. Human Rights and Protection against Torture
- iii. State Accountability
- iv. Independent Media
- v. Freedom of Speech and Assembly
- vi. Independent Judiciary
- vii. Equal Opportunities and Non-Discrimination
- viii. Fight Against Corruption
- ix. Public Administration.

The weights of the nine subcategories should depend on the importance each subcategory has for the normative dimension of Deep and Sustainable Democracy. One could, for example, argue that free and fair elections constitute the core of democracy and therefore Democratic Rights and Elections, including Political Pluralism, should be given a higher weight than the category of State Accountability.

Since it would be difficult to establish a clear priority of one or several subcategories over others, we decided to assign equal weights to all subcategories. Equal weighting of subcategories is also intuitively plausible since this method corresponds to the conceptual decision of conceiving, for example, the concept of democracy as composed of a variety of attributes placed on the same level. Equal weighting assumes that all subcategories of a concept possess equal conceptual status and that subcategories are partially substitutable by other subcategories.

An arithmetical aggregation of subcategories is, strictly speaking, possible only if subcategories are measured on an interval level, that is, we know that the scores of items, subcategories, categories, sections and dimensions contain information on distances. Most numerical data are measured at interval level: in these cases, we know, for example, that a share of EU exports amounting to 40% of GDP is twice a share of 20% and that this ratio is equal to the ratio between 60% and 30%. For the yes-no questions and items measured with other ordinal scales, we have information only about the ordering of scores, not about the distances between scores.

For example, we do not know the distance between a yes and a no for the question regarding parties' equitable access to state-owned media. Neither do we know whether the difference between yes and no for this question is equivalent with the difference between yes and no for the question asking whether political parties are provided with public funds to finance campaigns.

In principle, this uncertainty would limit us to determining aggregate scores by selecting the median rank out of the ranks a country has achieved for all subcategories (assuming equal weighting). This would, however, imply omitting the more detailed information contained by the numerical items. To use this

information and to put more emphasis on big differences between countries, we have opted to construct quasi-interval level scores by adding the scores of items measured at ordinal level. This has been a standard practice in many indices and can also be justified by the rationale behind equal weighting.

Given the frequent uncertainty about the importance of subcategories for aggregate concepts, the safest strategy seems to be assigning equal status to all subcategories. Equal status suggests assuming that a score of 1 used to code a positive response for one question equals a score of 1 for another positive response. Moreover, equal status means that all subcategories constituting a concept are partially substitutable. The most appropriate aggregation technique for partially substitutable subcategories is addition.

## HOW ARE THE DIFFERENT QUESTIONS WEIGHTED?

Since the number of items differs from subcategory to subcategory, and since we want to apply equal weighting, we standardised the subcategory scores by dividing them through the number of items. Thus, the subcategory score ranges between 1 and 0 and expresses the share of yes-no questions answered positively in terms of the aggregate concept (and/or the extent to which numerical items or ordinal-level items are evaluated positively).

Quasi-interval level scores allow a range of aggregation techniques at higher levels of aggregation (subcategories, categories, sections and dimensions). The most important methods are multiplication and addition. Multiplication assigns more weight to individual subcategories, emphasising the necessity of subcategories for a concept; in contrast, addition facilitates the compensation of weaker scores on some subcategories by stronger scores on other subcategories, emphasising the substitutability of subcategories for a concept.

We apply an additive aggregation of subcategories, categories and sections because this approach fits to the method used on the item level, reflects the substitutability of subcategories, and is less sensitive with regard to deviating values on individual subcategories.

To standardise the aggregate sums and ensure equal weighting, arithmetical means are calculated. An aggregate score is thereby calculated for each of the two dimensions of **Linkage** and **Approximation**. This method reflects the conceptual idea that the two dimensions are interdependent and jointly necessary for progress in European integration and sustainable democratic development.

Aggregation levels, aggregate scores, individual scores and the underlying raw data are documented in an excel file that can be downloaded from the Index website.

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## EASTERN PARTNERSHIP CIVIL SOCIETY FORUM

The Eastern Partnership Civil Society Forum (EaP CSF) is an umbrella organisation for more than 700 civil society organisations from the six Eastern Partnership countries and the EU. Launched in 2009, the Forum provides a platform for interaction between the EU and EaP civil society organisations, and aims at facilitating reforms in the EU's Eastern partners and bringing them closer to the EU. The Forum operates as an independent, transparent, and inclusive actor to secure changes on key policy areas across the four EaP thematic platforms, in which the Forum has a permanent observer status. On the national level, the Forum aims to strengthen diversity and plurality of public discourse and policymaking by holding governments accountable and promoting fundamental freedoms, participatory democracy, and human rights.

[www.eap-csf.eu](http://www.eap-csf.eu)





## EUROPEAN UNION

The European Union is a unique economic and political union between 28 European countries. It is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and gender equality prevail. The Eastern Partnership (EaP) is a specific dimension of the European Neighbourhood Policy involving the EU, its Member States and six Eastern European Partners: Armenia, Azerbaijan, Belarus, Georgia, the Republic of Moldova and Ukraine. The EaP aims at building a common area of shared democracy, prosperity, stability, and increased co-operation. The bonds forged through the EaP help to strengthen state and societal resilience. In the period of 2014-2020, the European Neighbourhood Instrument (ENI) is the key EU financial instrument for co-operation with the EaP countries.

**[www.europa.eu](http://www.europa.eu)**





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