



# EASTERN PARTNERSHIP INDEX

## 2020-21

CHARTING PERFORMANCE IN THE  
EASTERN PARTNERSHIP:  
DEMOCRACY AND GOOD GOVERNANCE,  
POLICY CONVERGENCE AND  
SUSTAINABLE DEVELOPMENT



EASTERN PARTNERSHIP  
CIVIL SOCIETY FORUM



Eastern Partnership Index 2020-21.  
Charting Performance in the Eastern Partnership:  
Democracy and Good Governance, Policy Convergence and Sustainable Development

© Eastern Partnership Civil Society Forum

December 2021

This publication was produced with the support of the European Union.  
The content of this publication does not reflect the official opinion of the European Union.  
Responsibility for the information and views expressed therein lies entirely with the authors.





# **EASTERN PARTNERSHIP INDEX**

## **2020-21**

**CHARTING PERFORMANCE IN THE  
EASTERN PARTNERSHIP:  
DEMOCRACY AND GOOD GOVERNANCE,  
POLICY CONVERGENCE AND  
SUSTAINABLE DEVELOPMENT**

Eastern Partnership Civil Society Forum

## THIS REPORT WAS PREPARED BY:

**Editor in Chief:** Kerry Longhurst, Collegium Civitas, Warsaw

**Data entry & analysis:** Calum Thomson, Secretariat of the Eastern Partnership Civil Society Forum

### **Sectoral Experts:**

Lilia Carasciuc, Executive Director, Transparency International – Moldova

Veronica Cretu, Open Government and Data for Development Expert

Tamar Khidasheli, Deputy Director, Democracy Research Institute

Veronika Movchan, Academic Director, Institute for Economic Research and Policy Consulting

Giorgi Mukhigulishvili, Lead Researcher, World Experience for Georgia

Boris Navasardian, President, Yerevan Press Club

Ekaterina Pierson-Lyzhina, Associated Researcher at the Cevipol of the Université libre de Bruxelles and the Eurasian States in Transition Research Centre (EAST Centre)

Elena Prohnițchi, Association for Participatory Democracy ADEPT

Iulian Rusu, Deputy Executive Director, the Institute for European Policies and Reforms (IPRE) \*After the research was completed, appointed Secretary of State at the Ministry of Justice of the Republic of Moldova

Dr Hanna Shelest - Director of Security Programmes, Foreign Policy Council “Ukrainian Prisma”

Oleg Tofilat, General Director, “Calea Ferată din Moldova” (CFM)

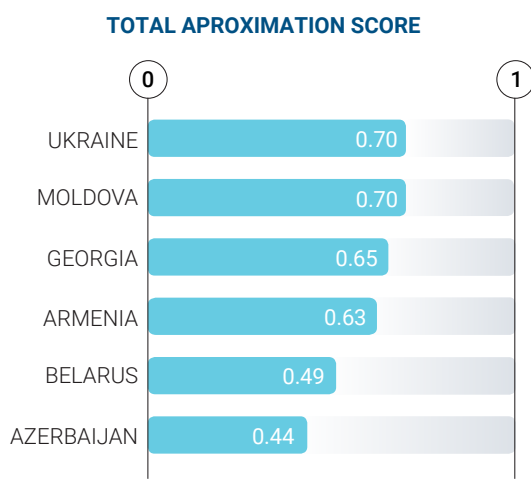
Anonymous expert from Belarus

Other experts and colleagues contributed to different stages of the 2021 Eastern Partnership Index (referred to as the Index throughout this publication). We are very grateful to all the experts, who worked side by side with us on this edition of the Index. We also benefited greatly from thoughtful comments and recommendations made by Věra Řiháčková along the process.

# TABLE OF CONTENTS

<b>MIND THE GAP: EMBEDDING THE RULE OF LAW AND DEMOCRACY ALONGSIDE ECONOMIC RECOVERY IN THE EASTERN PARTNERSHIP</b>	<b>4</b>
<b>INTRODUCTION</b>	<b>11</b>
<b>LIST OF ASPECTS OF APPROXIMATION</b>	<b>13</b>
<b>AGGREGATE APPROXIMATION SCORES 2021</b>	<b>14</b>
<b>DEMOCRACY AND GOOD GOVERNANCE</b>	<b>15</b>
Democratic Rights, Elections and Political Pluralism	16
Human Rights and Protection Against Torture	19
State Accountability	22
Independent Media	24
Freedom of Opinion and Expression, Freedom of Assembly and Association	28
Independent Judiciary	29
Equal Opportunities and Non-Discrimination	32
The Fight Against Corruption	35
Public Administration	38
<b>POLICY CONVERGENCE WITH THE EU</b>	<b>43</b>
Market Economy and DCFTA Alignment	44
Freedom, Security and Justice	48
Energy: Legislation Convergence and Energy Policy	51
Environment and Climate Policy	54
Transport Regulatory Policy	58
<b>SUSTAINABLE DEVELOPMENT</b>	<b>61</b>
People	61
Planet	63
Prosperity	64
Peace and Partnership	65
<b>ANNEXES</b>	<b>66</b>
Methodology	66
List of Contributing Experts	80

# MIND THE GAP: EMBEDDING THE RULE OF LAW AND DEMOCRACY ALONGSIDE ECONOMIC RECOVERY IN THE EASTERN PARTNERSHIP



The 2021 Index found Ukraine and Moldova to be the joint frontrunners, with Georgia in third position. The results mean that the Association Trio hold the top three places based on aggregate scoring. Armenia scored well on indicators to do with democracy and good governance, but was less impressive with regards to policy convergence, thus it takes fourth place. Fifth and sixth places are taken by Belarus and Azerbaijan. In both of these cases, their scores were lower than those in the 2017 Index, thus the gap between the two worst performers and the leading four became palpably wider.

The timeframe for the 2021 Index included some of the hardest periods of the pandemic and therefore provides insights into how states and CSOs have been affected and also how far EaP structures have proven to be robust. The previous 2020 EaP Index on 'linkage' (as opposed to 'approximation'), which covered 2018-19, identified a number of emerging challenges, which the current Index picks up on.<sup>1</sup>

First, the 2020 linkage Index highlighted COVID-19 as one of the top emerging challenges confronting the EaP. As the research cycle for the 2021 Index was coming to a close, the EU announced more support for EaP states, in the form of 75 million euros for vaccine programmes. Previously, the EU had provided more than 11 million items of PPE and over 1500 ventilators to EaP states, amongst other forms of support. Ukraine, Armenia, Georgia and Moldova also have mutual agreements with the EU for the recognition of digital COVID-19 certificates. In the preparation of EaP recovery programmes, EU support needs to be tightly linked to partners' commitments to core EU values, especially in the fields of governance, sustainability, equality and the rule of law.

A second challenge highlighted in the 2020 Index related to Belarus. By scaling back cooperation and imposing sanctions on authorities, the EU has typically focused on providing support for citizens, CSOs and activists. However, since the 2020 Index was published, the gravity of the situation in Belarus has worsened. State-sanctioned repression continues and the CSO sector inside the country is being decimated. The regime also 'skyjacked' a Ryanair flight over its territory in May 2021. Belarusian authorities are now using migrants, predominantly from the Middle East, as weapons against the EU in a new form of hybrid warfare, with humanitarian and security ramifications in the region. Thus, the EU's 'Belarus challenge' became unimaginably worse by the time the current Index was in preparation and in June 2021 the regime suspended its participation in the EaP.

<sup>1</sup> EaP CSF (2020) Eastern Partnership Index - Linkage 2018-19 <https://eap-csf.eu/wp-content/uploads/EaP-Index-Linkage-2018-2019.pdf> Accessed 14 November 2021.



## AN EASTERN PARTNERSHIP OF TWO GROUPS

The Index's overall results depict a region increasingly composed of two groups of best performers and worst performers, which is, in fact, further confirmation of the trend already apparent in 2017. The 2021 Index 'Charting Performance in the Eastern Partnership: Democracy and Good Governance, Policy Convergence and Sustainable Development' shows that the gap has widened between the top four and the bottom two states. This means that the region is split between those states with more advanced and elaborate political and trade agreements and those that are still operating in the framework of Partnership and Cooperation Agreements (PCAs).

*The Associated Trio moves ahead, albeit with some flaws*

The Associated Trio<sup>2</sup> are at the top of the scorecard in terms of their aggregate approximation. All three states also saw their aggregate scores on policy convergence rise from 2017, which is a reflection of the far-reaching effects of the implementation of their Association Agreements (AAs) and Deep and Comprehensive Free Trade Agreements (DCFTAs). Though the AAs and DCFTAs remain dynamic works in progress, they have already underpinned considerable normative and legal approximation. Bilateral trade between the EU and the Associated Trio has grown and high levels of policy convergence between the three states and the EU have transpired, particularly in the spheres of Freedom, Security and Justice and the Environment and Climate.

The Associated Trio's scores with regards to market economy and DCFTA alignment needs some unpacking. Whilst progress since the 2017 Index is apparent (especially in the case of Ukraine), it is not as considerable as might have been expected. What helps explain this is that the more progress the three states make in this area, the more demanding and more technically challenging the next steps become.

The Associated Trio made some improvements in democracy and governance areas, but progress was patchy, with inertia and backsliding also

apparent. The Associated Trio all struggled with the fight against corruption and saw their scores depreciate from 2017. Georgia and Ukraine also lost a significant number of points in relation to the independence of their judiciaries and all three states saw their independent media scores depreciate. The effects of the COVID-19 pandemic go some way in explaining these problems, however, the Associated Trio's uneven performance in this area and clear tendency for inertia and backsliding was apparent even before the pandemic.

The pandemic shone a light on the apparent gap between the Associated Trio's progress in EU policy convergence and its progress in the spheres of governance, democracy and the rule of law, which suggests degrees of miss-alignment with core EU norms and values.

The 2021 Index gives rise to multiple considerations regarding the Associated Trio. The first concerns whether the positive progress in policy convergence can be sustained, especially in the light of economic slowdowns, and possibly spill over in to other areas where progress has been less impressive. Second, how the DCFTAs will evolve after the first phase of implementation is completed is unclear, which prompts questions about what comes next in the Associated Trio's alignment with the market economy. Finally, the next few years will be critical in terms of the Associated Trio's capacities to catch up with democracy and good governance, especially in the context of post-pandemic recovery.

*Armenia makes significant advances in democracy and good governance, so what next?*

Armenia rose to the top in the 2021 Index in terms of Democracy and Good Governance, but came in fourth place with regards to policy convergence, which reflects the newness and less demanding nature of CEPA versus the AAs / DCFTAs.

Armenia leads on Democratic Rights and Elections, including Political Pluralism, Freedom of Opinion and Expression, Assembly and Association, Independent Judiciary, the Fight against corruption and Independent Media. Moreover, the gap between Armenia's scores on the fight against corruption and free media and the next best scorer (Georgia) are striking.

<sup>2</sup> The Associated Trio is Georgia, Moldova and Ukraine. All three have Association Agreements (AAs) including Deep and Comprehensive Free Trade Agreements (DCFTAs) with the EU.

Though CEPA is still in its early stages of implementation, the Index suggests that it has encouraged a positive momentum of approximation and convergence between Armenia and the EU. The Index also signals the existence of considerable will and capacity to implement reforms, on the part of Armenian authorities and CSOs. Armenia's successes notwithstanding, the results of the Index raise a number of considerations.

First, how sustainable is Armenia's approximation with the EU? Will a prospective future deepening of Armenia's integration into the Eurasian Economic Union prompt a reversal of some aspects of the country's progress vis-à-vis EU norms and standards? In which case, is the EU prepared for this? The sustainability of Armenia's achievements hitherto is also highly dependent on not only political and macroeconomic stability, but also on there being sufficient domestic capacity and resources in public administration and CSOs to carry out implementation, monitoring and verification.

Second, Armenia's progress has contributed to the gap between the top four performers and the bottom two across a number of indicators, and yet Armenia is not part of the Associated Trio. The results of the Index confirm the need for an 'Associated Trio+' formula to exist in those areas where it makes sense to include Armenia, but at the same time still allows the Associated Trio to maintain their identities and relations with the EU premised on the notion of future full membership. Meanwhile, Armenia will progress on a 'more for more' principle.

## INDEPENDENT JUDICIARY: INERTIA AND BACKSLIDING TENDENCIES ARE IN PLAIN SIGHT

Independent judiciaries are vital not only for a well-functioning justice system in line with EU and international norms, but also for a country's broader development and for building public trust. Furthermore, judicial independence is essential for political pluralism, a functioning business environment, fighting corruption, the delivery of public goods and so on. As such it is the fundamental fabric of the approximation and convergence envisaged in the EaP.

Problems associated with the rule of law, and more specifically the challenge of judicial independence, remains a persistent backstory to the EaP's development since its inception in 2009. The 2021 Index confirms that all EaP states, including the Associated Trio, struggle with maintaining judicial systems that are independent and resistant to political interference. The COVID-19 pandemic did not 'cause' fault lines in the judicial sector, but rather it exacerbated longstanding systemic and procedural problems.

The 2021 Index tends to suggest that judicial independence will not just appear, regardless of good progress and convergence in other areas, but rather needs to be prioritised and woven into all other reform areas, especially in the context of post-pandemic recovery. In other words, the results of the Index confirm that economic strategies for post-pandemic recovery in the EaP region need to be underpinned by equally strong support for thorough judicial reform and democracy.

Anchoring judicial independence requires a combined effort from authorities, CSOs and international organisations. It also assumes that relevant legal expertise exists in public administrations, including Parliaments, as well as CSOs, in order that reforms can be effectively implemented and verified. Institutional frameworks and inter-institutional relationships need to be examined and tested for purpose, alongside effective measures to ensure that judicial appointments, promotions and dismissals are made according to EU and international norms and good practice. Equally, judicial independence has to be conceived as a 'process' and not just a static end-goal, thus training and re-training of judges and other legal staff should be routine. Equally, the gender balance in the judiciary requires attention. The Index showed that the higher up the legal career ladder you go, the less likely it is to find females in senior roles.

Furthermore, the realisation of an independent judiciary can only make a real and sustained difference, if access to justice is facilitated and guaranteed for all citizens, including vulnerable groups. This needs to include normative legal protections, legal awareness and legal aid and counsel, amongst other measures, to be readily available to citizens. The Index also found that attention is needed with regards to ensuring women's equitable access to justice.

## THE GAP BETWEEN LAW AND IMPLEMENTATION REMAINS A CHALLENGE IN THE FIGHT AGAINST CORRUPTION

Previous gains in the fight against corruption were seemingly lost across the EaP region. All states, apart from Armenia, whose score appreciated, saw a substantial depreciation in their scores since 2017. Out of the Associated Trio, Ukraine experienced the sharpest fall.

The pandemic ushered in shortcuts to governmental transparency and limitations to the rule of law, but it was not in itself a root cause of the apparent upswing in corruption. Rather, the pandemic and its fallout amplified existing problems associated with weak normative and policy frameworks for anti-corruption. The Index points to four issues.

First and foremost, the results of the Index point to a gap between legislation and actual implementation. This is illustrated by the fact that whilst the Associated Trio are in possession of anti-corruption laws, have national anti-corruption strategies and are also signatories to relevant European and international conventions, national anti-corruption measures appear to be ineffective or unevenly applied across the region.

Second, there is a lack of public trust in national anti-corruption bodies. This is reinforced by the fact that many high-level crimes carried out by corrupt officials and élites against the state have yet to be properly investigated and offenders mostly go unpunished. The net-result is that deterrence is weak and corruption became embedded in everyday transactions, and is subsequently hard to unpick. Linked to this, are persistent problems associated with asset declarations. A lack of political will and resources, coupled with weak data collection and verification capacities on the side of authorities and CSOs means that self-enrichment by élites continues unabated in many countries and is seldom met with punitive measures.

Third, whilst a plethora of anti-corruption institutions have emerged in EaP states, the result has often been an overly complex web of

bodies with competing mandates and remits. Anti-corruption bodies have also been used as political tools to attack opposition figures and past leaders, which tends to diminish the legitimacy of these bodies in the eyes of citizens.

Finally, the fight against corruption is a moving target, with fresh challenges for EaP anti-corruption bodies and CSOs with limited resources. Amongst the 'new generation' of challenges is the phenomenon of cryptocurrencies, which are far harder to trace and account for and therefore a useful means for corrupt officials to use as a tool for self-enrichment.

## STRENGTHENING A RIGHTS-BASED APPROACH TO GENDER WITHIN AN INCLUSIVE SOCIETY

Implementation of the Istanbul Convention (the Council of Europe's Convention on preventing and combating violence against women and domestic violence)<sup>3</sup> is an essential component of an inclusive society and indicative of a rights-based approach to gender. The Istanbul Convention came into force in Georgia already in 2017 and the Moldovan Parliament ratified it in October 2021. Meanwhile, whilst, Armenia and Ukraine signed Convention in 2018 and 2011, respectively, they have yet to ratify it.

The Istanbul Convention has become synonymous with the EU's approach to securing women's rights and gender equality within inclusive societies. Absence from the Convention constitutes not just a legislative hole in states' broader adherence to their membership commitments vis-à-vis the Council of Europe, but also a strong normative gap and miss-alignment with the EU.

The Istanbul Convention has become heavily politicised and characterised by a clash of values within the domestic arena in Ukraine.<sup>4</sup> Conservative forces espousing 'traditional family values', including the church, have honed in on the 'gender' aspects of the Convention, which mirrors situations in Poland, Hungary and Bulgaria over the past three years.

<sup>3</sup> Council of Europe (2011) *Convention on preventing and combating violence against women and domestic violence*, Accessed 11 October 2021. 34 countries have ratified the Convention. Azerbaijan has not yet signed and Belarus is not a member of the Council of Europe. Turkey has withdrawn from the Istanbul Convention.

<sup>4</sup> Elise Ketelaars (2018) *When 'European values' do not count: Anti-gender ideology and the failure to comprehensively address GBV in Ukraine* <https://blogs.lse.ac.uk/gender/2018/09/26/when-european-values-do-not-count-anti-gender-ideology-and-the-failure-to-comprehensively-address-gbv-in-ukraine/> Accessed 20 October 2021.

Gender-based violence (GBV), including conflict-related GBV, spiked during the COVID-19 pandemic at the global level. This was also the case in EaP states, where GBV is both a symptom and a root cause of gender inequalities and prevailing societal and economic structures characterised by patriarchy in the region.<sup>5</sup>

It is more urgent than ever to ratify and implement the provisions of the Istanbul Convention. Ratification signals not just a legislative action, but also a commitment to awareness raising, bolstering punitive measures against offenders and recognising the rights of victims. Furthermore, EU support for EaP states in this sphere needs to address the root and structural causes of GBV, thus assistance needs to cohere with the EU Gender Plan 2021-2025 and relevant SDGs.

## ALL EYES ON MOLDOVA: CHALLENGES INVOLVED IN OVERCOMING STATE CAPTURE

As a result of the presidential and parliamentary elections in Moldova in 2020 and 2021, the country seems to be on the cusp of change with pro-Europe, anti-corruption leaders at the helm. Expectations are high, at home and abroad to see the types of sweeping changes that could bring an end to state capture, which held back the country's political and socio-economic development for at least the past decade.<sup>6</sup> The prevalence of entrenched state capture and its corrupting effects led to setbacks in Moldova's approximation to the European Union.

The results of the Index bode well for Moldova. Alongside Ukraine, Moldova is the joint frontrunner in the aggregated approximation score. It is the overall leader on policy convergence and the top scorer out of the Associated Trio for Democracy and Good Governance. Moreover, the Index shows that Moldova significantly progressed in the spheres of Environment, Climate and Energy.

However, history tends to show that whilst optimism is important, this should be balanced with a dose of healthy caution. Overturning

state capture will require effort on the part of the country's leadership and development partners. Moreover, the country's 'de-capturing' will only have a chance of being sustainable if at least three fundamental factors are addressed:

First, the independence of Moldova's judiciary needs to be assured. This is a momentous task and will require the combined and ongoing efforts of authorities, donors and CSOs. De-politicising the judiciary will be essential if the government is going to come through with its pledge to prosecute those individuals who previously captured the state and stole funds from the national budget.

Second, CSOs need an enabling environment replete with channels to meaningfully interact with authorities. CSOs also evidently need to be properly resourced so that they can raise the quality of their expertise and become pro-active and not just ad hoc in their scrutinising of the government and public administration.

Third, Moldova's public administration at national and local levels needs to be subject to ongoing scrutiny, support and verification for professional standards from the side of the EU and CSOs. Though Moldova's public administration score did rise since 2017, the current Index revealed gaps and deficiencies, which need to be bridged if the government is going to tackle state capture. This includes the extent to which the civil service is made up of professional and well-qualified staff and subject-experts who are recruited and promoted according to proper rules and transparent merit-based criteria. Problems in this area also feature, to varying degrees, across the Associated Trio.

## BELARUS – NEXT STEPS

The results of the Index coupled with the ongoing repression by authorities towards Belarusian citizens seem to confirm that it is inherently problematic to evaluate Belarus within the same framework as the other five EaP states, particularly in those spheres that relate to democracy, human rights, independent judiciary, political pluralism and independent media. Belarus appeared at the bottom of the scorecard in the sphere of deep democracy and

<sup>5</sup> UN Women (2020) *The Shadow Pandemic: Violence against women during COVID-19*, <https://www.unwomen.org/en/news/in-focus/in-focus-gender-equality-in-covid-19-response/violence-against-women-during-covid-19> Accessed 5 September 2021; Becky Carter (2021) *Gender inequalities in the Eastern Neighbourhood Region (K4D)* [https://opendocs.ids.ac.uk/opendocs/bitstream/handle/20.500.12413/16578/977\\_gender\\_inequalities\\_in\\_Eastern\\_Neighbourhood\\_region.pdf?sequence=1&isAllowed=y](https://opendocs.ids.ac.uk/opendocs/bitstream/handle/20.500.12413/16578/977_gender_inequalities_in_Eastern_Neighbourhood_region.pdf?sequence=1&isAllowed=y) Accessed 10 November 2021.

<sup>6</sup> Longhurst, K. (2021). *Structural Distortions: Re-examining State Capture and Appraising its Persistence and Effects*. *Sprawy Międzynarodowe*, 73(4), 67-93. Accessed 10 October 2021.



governance more frequently than Azerbaijan and also saw some backsliding in policy convergence.

However, what seals Belarus's status as an outlier vis-à-vis other EaP states, is the relentless brutality exhibited by state authorities towards private citizens, opposition figures and CSOs, which happens in plain sight,<sup>7</sup> coupled with widespread and impenetrable impunity for perpetrators.

Belarusian authorities have now decided to suspend their participation in the EaP and at the same have engaged in new and intensive forms of hybrid warfare towards the EU, by using migrants to pile pressure at its borders with Poland and Lithuania. This development

requires an approach from the EU's side that strongly distinguishes the Belarusian people and their desire for freedom, from Lukashenka's illegitimate regime.

First, flexible, timely and needs-based support for CSOs and activists needs to continue. Second, free journalism in all of its forms needs support, especially against the backdrop of preparations for the referendum in 2022.<sup>8</sup> Third, donor support should also continue towards free academia, research and student communities both inside and outside the country. Fourth, the brain drain, especially of young people and entrepreneurs going westwards needs to be recognised and its full effects considered for the future of the country.

## SIX CROSS-CUTTING RECOMMENDATIONS

1. The paradigm of following the approximation and convergence of EaP states to EU norms should put greater emphasis on monitoring and verifying actual implementation and consistency in practice. This is important, if the apparent **gaps and discrepancies between law and practice** are to be bridged, especially in the case of the Associated Trio, but also Armenia. Measures of inclusivity and equality, as per SDG commitments, should be monitored with more vigour and linked to EU support, including pandemic recovery funds.
2. The **Associated Trio** should be offered 'more', but this needs to be contingent on real and sustainable improvements in the areas of democracy and governance. It is important that the EU recognises the hard work done so far, not least by CSOs, and to give concrete acknowledgement of the Association Trio's EU membership aspirations, but at the same time, do not lower the bar regarding further reforms. Armenia should be attached to the Associated Trio, as and when useful and desired by all sides. Now is a good time for the EU to step closer towards a visa-free regime with Armenia.
3. EaP authorities, CSOs and the EU need to work together on post-pandemic **resilience building** and meeting SDG commitments. Accordingly, an 'SDG Push', with 'bold policy choices' and investments into governance, social protection, green economy and digitalisation is needed.<sup>9</sup> This also needs to entail reviewing lessons learned from the pandemic, monitoring public policies to verify whether temporary pandemic-induced restrictions are being satisfactorily removed, making the disbursement of recovery support for authorities contingent on their further commitments to ensuring oversight and verification roles to CSOs and ensuring that robust checks and balances are in place to prevent the corrupt use of incoming financial relief. In addition, EU states could provide practical support with regards to best practice in terms of online delivery of public hearings and consultations, court trials, parliamentary scrutiny and so on. This will help EaP states

<sup>7</sup> UN Women (2020) *The Shadow Pandemic: Violence against women during COVID-19*, <https://www.unwomen.org/en/news/in-focus/in-focus-gender-equality-in-covid-19-response/violence-against-women-during-covid-19> Accessed 5 September 2021; Becky Carter (2021) *Gender inequalities in the Eastern Neighbourhood Region (K4D)* [https://opendocs.ids.ac.uk/opendocs/bitstream/handle/20.500.12413/16578/977\\_gender\\_inequalities\\_in\\_Eastern\\_Neighbourhood\\_region.pdf?sequence=1&isAllowed=y](https://opendocs.ids.ac.uk/opendocs/bitstream/handle/20.500.12413/16578/977_gender_inequalities_in_Eastern_Neighbourhood_region.pdf?sequence=1&isAllowed=y) Accessed 10 November 2021.

<sup>8</sup> Longhurst, K. (2021). *Structural Distortions: Re-examining State Capture and Apprising its Persistence and Effects*. *Sprawy Międzynarodowe*, 73(4), 67-93. Accessed 10 October 2021.

<sup>9</sup> Abidoie, B., Felix, J., Kapto, S. & Patterson, L. (2021). *Leaving No One Behind: Impact of COVID-19 on the Sustainable Development Goals (SDGs)*. New York, NY and Denver CO: United Nations Development Programme and Frederick S. Pardee Center for International Futures. Accessed 9 November 2021.

in the sphere of the rule of law and also to meet their *EU4Integrity* and Open Government-related commitments. All such efforts need to be underpinned by the expectation of full adherence to core EU values and inclusive societies. This includes affirming the rights and participation of vulnerable groups and women in recovery plans.

4. All stakeholders must pay more attention to the **rule of law** and in particular the extent to which judiciaries are able to resist partisanship and political interference. Independent judiciaries are key in this respect, but wider efforts are also needed on the side of the EU and EaP stakeholders to make sure that citizens are aware of their rights and have unencumbered access to justice, including legal counsel and legal aid. CSOs should continue their expert involvement in these reform processes and also monitor implementation. This can include the carrying out of frequent stress tests, by CSOs and independent legal experts and bodies to evaluate the independence of the judiciary and citizens equitable access to justice.
5. Concrete building blocks for **inclusive societies** need to be laid and a stronger commitment to right-based gender policies pursued, in line with SDG commitments. As a first step, the EU should tether ratification and implementation of the Istanbul Convention to its support for Ukraine, Armenia and Azerbaijan. EU support should be forthcoming towards Moldova to help authorities and CSOs to implement the provisions of the Convention across all elements of government and public services, including the education system. Inclusive societies also foresee robust anti-discrimination legislation on SOGI, LGBTQI+ rights and vulnerable groups. The EU should continue to support CSOs active in these areas and also place stronger expectations on EaP states to improve legislative and practice.
6. Emergency **support and resources for CSOs** need to be flexible, to enable quick mobilisation for campaigns and responses across all EaP states. At the same time, training CSOs and building subject-specific expertise, for example in trade or the environment, is imperative. In the case of Belarus, whilst public authorities have left formal EaP structures, the EU and member states need to reaffirm the democratic aspirations of the Belarusian people and their orientation to European values. Accordingly, the EU needs to continue to provide lifelines to affected and liquidated CSOs, as well as safeguarding the rights and providing assistance to political refugees from Belarus.

# INTRODUCTION

The Eastern Partnership Index 2021 (hereafter the ‘2021 Index’ or ‘Index’) charts developments in the six Eastern Partnership countries towards democracy and European integration.<sup>10</sup> The Index measures steps taken in the six states on the path towards good governance, including the observance and protection of human rights, sustainable development, and policy convergence with the European Union.

The research covers the period from 2020 through to mid-2021, a timeframe that includes some of the most challenging phases of the COVID-19 pandemic. The findings of the Index show the wide-ranging impacts the pandemic and its fallout had in the region, from the fight against corruption, freedom of assembly to independent media and equality.<sup>11</sup> Consequently, insights from the Index provide critical evidence from the region at a time when governments, Civil Society Organisations (CSOs) and the EU are working on recovery plans.

The Index comes about at an interesting phase in both the EaP and the EU’s evolution. It has been four years since the previous full Index on Approximation was published and much has occurred. An unparalleled clampdown on civil liberties and human rights took place in Belarus in the aftermath of presidential elections and renewed military confrontation erupted in Nagorno-Karabakh. Meanwhile, the bilateral Comprehensive and Enhanced Partnership Agreement (CEPA) agreement between Armenia and the EU entered into force and after its 2020 and 2021 elections, Moldova appears to be on the cusp of a new democratic and pro-European era. The Associated Trio, namely, Georgia, Ukraine and Moldova, are completing the first and most challenging phase in the implementation of their Deep and Comprehensive Trade Agreements (DCTAs) with the EU. On the EU’s side, the past four years witnessed BREXIT, rising challenges to the rule of law in a number of Central European states and at the same time the reigniting of the EU enlargement dynamic in the Western Balkans. The EU also launched its Conference on the Future of Europe, which

is supposed to be citizen-led and geared towards improving the quality of democracy in the EU.<sup>12</sup>

In the course of compiling the Index the situation in Belarus substantially worsened in the wake of the 2020 presidential elections. Repression is taking place outside of the rule of law in retaliation for people expressing their opinions. Moreover, violations of human rights and freedoms are happening with full impunity for law enforcement bodies. The urgency and severity of the clampdown on civil society, significant brain drain and the emergence of new challenges, including, for example, pressure on businesses and illegal immigration make it inherently problematic to evaluate Belarus within the Index’s analytical framework. As the research-cycle of the 2021 Index was coming to a close, the government of Belarus suspended its participation in the EaP.

The rationale of the Index is first and foremost to identify change, the extent of change and the nature of it in EaP states. As in the 2017 edition of the Index the notion of **‘Approximation’** is used to see how far EaP states are moving closer to or shifting away from the EU. The 2021 Index sheds light on the gaps and discrepancies that often persist between legislative acts and actual implementation and practice.

The Index gauges approximation in two fundamental spheres:

- **Democracy and Good Governance:** approximation captures the extent to which EaP states have incorporated core European norms and international standards. The Index measures this by establishing whether EaP states have adopted, legislated for and also put into practice key international and European conventions and institutional norms relating to democracy and human rights. This incorporates: Democratic Rights, Elections and Political Pluralism; Human Rights and Protection against Torture; State Accountability; Independent Media; Freedom of Opinion, Expression,

<sup>10</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.

<sup>11</sup> For an in-depth analysis of how the COVID-19 pandemic affected EaP countries and CSOs see: EaP Civil Society Forum #PrepareEaP4Health campaign and related resources and publications <https://eap-csf.eu/campaigns/prepare-eap-for-health-covid-response/> Accessed 8 November 2021.

<sup>12</sup> European Commission, Conference on the Future of Europe [https://ec.europa.eu/info/strategy/priorities-2019-2024/new-push-european-democracy/conference-future-europe\\_en](https://ec.europa.eu/info/strategy/priorities-2019-2024/new-push-european-democracy/conference-future-europe_en) Accessed 9 November 2021.

Assembly and Association; Independent Judiciary; Equal Opportunities and Non-discrimination; Fight Against Corruption and lastly, Public Administration.

- **Policy Convergence with the EU:** approximation identifies the extents to which EaP states have converged with, moved closer to or are shifting away from EU and international standards and norms in key policy fields and sectors. This incorporates: Market Economy and DCFTA; Freedom, Security and Justice; Energy Legislation and Energy Policy; Environment and Climate Policy and Transport Regulatory Policy.

Identifying approximation with regards to **Sustainable Development** required a slightly different approach. By analysing the contents of UN and national reporting from EaP states as a means to chart progress towards Sustainable Development Goals (SDGs), focus was given to aspects that are the most salient to the overall objectives of the Index. Gauging EaP states progress in relation to the SDGs provides another layer to understanding developments in the region and in particular how countries are measuring up to their declared international development obligations.

The results presented in this report provide an up to date and nuanced appraisal of developments across core political, social and economic themes and issues in all six EaP states. The Index is based on national and sectoral expert-level insights from specialists in EaP countries working in CSOs, academia, the media and think tanks. Consequently, the results are grounded in authentic insights and understandings of the socio-economic and political landscapes of the countries in the region.

The Index uses a multi-layered methodology, which is described in the annexe. It involved over 50 experts from all EaP states at each and every stage, namely in the basic research design, data gathering, quantitative and qualitative analysis and verification.

As a first step, national experts completed a questionnaire by giving scores for their countries against a detailed set of indicators,<sup>13</sup> which formed the basis of subsequent national reports, drafted by the experts.<sup>14</sup> These reports were then analysed by sectoral experts, also from the EaP region, who synthesised national-level findings into a wider regional perspective. Fourteen focus groups based on the sectoral reports were then held and provided an opportunity for all experts and the Index editorial team to collectively probe, discuss and validate the findings, whilst also identifying salient case studies.

Through its methodological approach, the Index strikes an effective balance between richness and rigour and yields evidence, lessons learned and examples of best practice of use for EaP and EU stakeholders. The Index's method also means that progress and change can be gleaned on a comparative cross-regional basis, meaning that instances of **progress, backsliding and inertia** and where relevant, **frontrunners**, can be identified. Though the 2021 Index compares approximation scores with those from 2017, we recognise that since time has elapsed and much has happened during those four years, direct comparisons are not always valid. Moreover, the following edition of the EaP Index, which was published in 2020 and covered 2018-19, only looked at EU-EaP relations through the prism of 'linkage' and not approximation, thus it does not help with detailed comparisons.<sup>15</sup>

The report is organised as follows. The first part of looks at approximation in the sphere of Democracy and Good Governance, followed by results relating to sectoral Policy Convergence. Attention is given to aggregate and disaggregate results. Findings are presented in charts accompanied by summary commentaries, which report on key findings and notable results. The Index also presents recommendations aimed at CSOs, national EaP authorities and the EU. The subsequent part provides an overview of the momentum towards achieving SDGs in EaP states.

<sup>13</sup> The full breakdown of the questionnaire and sources can be found at <http://eap-csf.eu/eastern-partnership-index/>

<sup>14</sup> The questionnaire was completed by country experts in July 2021. National and sectoral reports were written and submitted in August 2021. Online focus groups were held during August, September and October 2021.

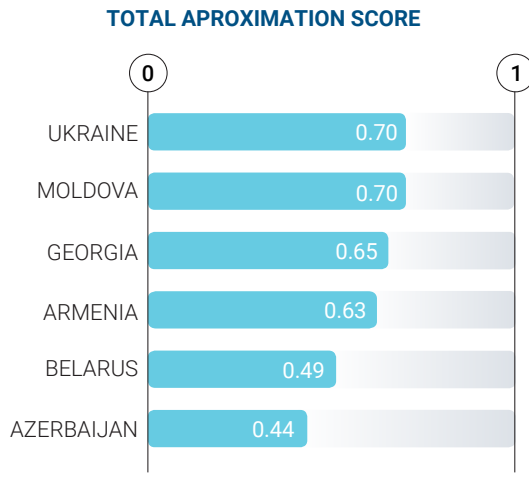
<sup>15</sup> The EaP CSF published an Index in 2020, which covered the 2018-2019 period and focused on 'linkage' dimension, not covering 'approximation'. Previous Index on 'approximation' was released in 2018. See: <https://eap-csf.eu/for-download/> Accessed 14 November 2021.



# LIST OF ASPECTS OF APPROXIMATION

- |  |  |
|--|--|
| <p><b>1 DEMOCRACY AND GOOD GOVERNANCE</b></p> <p>1.1 Democratic Rights and Elections, including Political Pluralism</p> <p>1.1.1 Legal Framework and its compliance with international standards</p> <p>1.1.2 Organisation of elections</p> <p>1.1.3 Electoral campaigning</p> <p>1.1.4 Electoral Competitiveness</p> <p>1.2 Human rights and Protection against Torture</p> <p>1.2.1 International Protection of Human Rights</p> <p>1.2.2 National Protection of Civil and Political Rights</p> <p>1.3 State Accountability</p> <p>1.3.1 Executive accountability to legislature</p> <p>1.3.1.1 Legislature's influence over executive</p> <p>1.3.1.2 Legislature's institutional autonomy</p> <p>1.3.1.3 Legislature's specific powers</p> <p>1.3.1.4 Legislature's institutional capacity</p> <p>1.3.1.5 Conditions for opposition</p> <p>1.3.2 Access to Information</p> <p>1.3.3 Transparent budgeting</p> <p>1.3.4 Democratic control over security and law enforcement institutions</p> <p>1.3.4.1 Internal control</p> <p>1.3.4.2 Parliamentary oversight</p> <p>1.3.4.3 Transparency</p> <p>1.3.4.4 Civil society oversight</p> <p>1.4 Independent Media</p> <p>1.5 Freedom of Opinion and Expression, Freedom of Assembly and Association</p> <p>1.5.1 Freedom of opinion and expression</p> <p>1.5.2 The Right to Freedom of Assembly</p> <p>1.5.3 The Right to Freedom of Association</p> <p>1.6 Independent Judiciary</p> <p>1.6.1 Appointment, promotion and dismissal of judges</p> <p>1.6.2 Institutional independence</p> <p>1.6.3 Judicial powers</p> <p>1.6.4 Accountability and transparency</p> <p>1.7 Equal opportunities and non-discrimination</p> <p>1.7.1 International and regional HR legal documents</p> <p>1.7.2 Anti-discrimination legislation and policy</p> <p>1.8 Fight against corruption</p> | <p>1.8.1 Corruption incidence and the capacity to criminalise and prosecute corruption</p> <p>1.8.2 Internal and external auditing</p> <p>1.8.3 Public procurement</p> <p>1.9 Public administration</p> <p>1.9.1 Policy formulation and co-ordination</p> <p>1.9.2 Local government</p> <p>1.9.3 Impartial and professional civil service</p> <p>1.9.3.1 Legal framework of civil service management</p> <p>1.9.3.2 Institutional framework</p> <p>1.9.3.3 Employment and remuneration</p> <p>1.9.3.4 Recruitment, promotion, and disciplinary procedures</p> <p>1.9.3.5 Management of public service quality</p> <p><b>2 POLICY CONVERGENCE</b></p> <p>2.1 Market Economy and DCFTA</p> <p>2.1.1 Market Economy</p> <p>2.1.1.1 Market entry and exit</p> <p>2.1.1.2 Competition policy and state aid</p> <p>2.1.1.3 Private property</p> <p>2.1.1.4 Intellectual property rights (IPRs)</p> <p>2.1.2 Trade policy convergence</p> <p>2.1.2.1 Technical Barriers to Trade (TBT)</p> <p>2.1.2.2 Sanitary and phytosanitary measures</p> <p>2.1.2.3 Customs and trade facilitation</p> <p>2.1.3 Sectoral cooperation</p> <p>2.1.3.1 Financial services and movement of capital</p> <p>2.1.3.2 Digital Services</p> <p>2.2 Freedom, Security and Justice</p> <p>2.2.1 Visa dialogue</p> <p>2.2.2 Irregular immigration, including readmission</p> <p>2.2.3 Border management</p> <p>2.2.4 Security and combatting organised crime</p> <p>2.3 Energy: Legislation Convergence and Energy Policy</p> <p>2.3.1 Institutional framework of energy market</p> <p>2.3.2 Energy efficiency</p> <p>2.3.3 Renewable Energy</p> <p>2.3.4 Energy Security</p> <p>2.4 Environment and climate policy</p> <p>2.4.1 Environmental policy</p> <p>2.4.2 Climate Change</p> <p>2.5 Transport: Regulatory Policy</p> <p><b>3 SUSTAINABLE DEVELOPMENT</b></p> <p>3.1 People</p> <p>3.2 Planet</p> <p>3.3 Prosperity</p> <p>3.4 Peace and Partnership</p> |
|--|--|

# AGGREGATE APPROXIMATION SCORES 2021



The 2021 Index found Ukraine and Moldova to be the joint frontrunners, each with a score of 0.70. Next comes Georgia with 0.65. The results mean that the Association Trio hold the top three places based on aggregate scoring. Armenia scored well on aspects to do with democracy and good governance, but was less impressive with regards to policy convergence, thus it takes fourth place with an overall score of 0.63. It is noteworthy that the gap between Georgia and Armenia is very small. The fifth and sixth places are taken by Belarus and Azerbaijan with 0.49 and 0.44 respectively. In both of these cases, their scores were lower than those in the 2017 Index, thus the gap between the two worst performers and the leading four became palpably wider over the course of four years.

# DEMOCRACY AND GOOD GOVERNANCE

Approximation in relation to ‘Democracy and Good Governance’ captures the extent to which EaP states have incorporated core European and international standards. The Index measures this by establishing whether EaP states **have adopted, legislated for and also put into practice** key international and European conventions and norms relating to democracy and human rights.



The illustration above denotes aggregate scores for each EaP state. The aspects contributing to the scores in democracy and good governance are:

- Democratic Rights and Elections, including Political Pluralism.
- Human Rights and Protections against Torture.
- State Accountability.
- Independent Media.
- Freedom of Opinion and Expression, Freedom of Assembly and Association.
- Independent Judiciary.
- Equal Opportunities and Non-discrimination.
- Fight Against Corruption.
- Public Administration.

Armenia went to the head of the scorecard in Democracy and Good Governance and was the top performer across five aspects, namely Fight against Corruption, Independent Judiciary, Freedom of Freedom of Opinion and Expression, Freedom of Assembly and Association, Independent Media and Democratic Rights, Elections and Political Pluralism. Moldova also demonstrated progress and moved into second place, above both Georgia and Ukraine, who achieved third and fourth places respectively. Ukrainian and Georgian scoring suggest inertia apparent in some areas relating to democracy and governance. Ukraine achieved only one top score, which was for human rights and protections against torture and took equal first place with Georgia for public administration. Meanwhile, Georgia was also the top scorer for state accountability.

Azerbaijan and Belarus reside at the bottom of the Index for Democracy and Good Governance. The gap between the bottom two states and the other four remains wide across all aspects, but especially regarding elections and political pluralism, independent media and freedom of opinion, expression, assembly and association.

## DEMOCRATIC RIGHTS, ELECTIONS AND POLITICAL PLURALISM

DEMOCRATIC RIGHTS, ELECTIONS AND POLITICAL PLURALISM	
RANK	2020/21
ARMENIA	0.84
UKRAINE	0.78
GEORGIA	0.77
MOLDOVA	0.71
AZERBAIJAN	0.20
BELARUS	0.16

**Armenia made a large leap in the scoring and secured first place, followed by Ukraine, Georgia and then Moldova. Both Armenia and Ukraine's 2021 scores were significantly higher than those recorded in 2017. Azerbaijan and Belarus took fifth and sixth places. The gap between the two bottom scorers and the other four became somewhat larger, than was the case in 2017.**

All countries went through an intense period of electoral activity. Parliamentary elections were held in Armenia, Azerbaijan, Georgia and Moldova, presidential elections were held in Belarus and Moldova and local government elections took place in Ukraine. Despite some irregularities, international observers confirmed that the elections in Armenia, Georgia, Moldova and Ukraine were competitive and that fundamental freedoms were mostly respected.<sup>16</sup> In general, the COVID-19 pandemic did not stop the holding of elections, though it did affect election observation standards. This was especially the case in Belarus, where the public observation of voting, ballot counting and tabulation were dramatically restricted.

Whilst almost all EaP countries have **legislative frameworks** in place for conducting democratic elections, gaps and shortcomings persist with regards to actual and consistent implementation. Armenia and Ukraine are frontrunners on compliance with international standards, after both countries underwent extensive electoral reforms in 2020-2021, which helped them to address several OSCE and Venice Commission recommendations. However, thus far, only Ukraine has road-tested its reforms, which it did in the context of local elections in October 2020. Armenia did not apply the amendments (adopted only in May 2021), to its snap parliamentary elections of 20 June 2021, thus it remains to be seen whether the government will follow through on the changes made.

Georgia revised its electoral legislation several times during 2020, but still only partially addressed ODIHR recommendations. Moreover, all revisions were done less than one year before the parliamentary elections of 31 October 2020, which is at odds with international good practice. Frequently changing electoral laws is not unusual in EaP countries, but can lead to inconsistencies in electoral legislation and as a result, the election process can be marred amidst concerns that reforms are politically motivated. For example, the most recent revisions of electoral legislation in Armenia and Georgia were perceived to be favourable to the incumbent government, despite the fact that both revisions had been carried out on the back of broad consultations.<sup>17</sup> Moldova also carried out reforms, however most of ODIHR's recommendations remained untouched and were reiterated by international observers during the 2020 presidential and 2021 parliamentary elections.

On the issue of **fair and effective constituency demarcation** Armenia, Moldova and Ukraine all have processes reportedly free of political influence with boundaries of electoral constituencies coinciding with administrative-territorial units. In Georgia, contrary to international good practice, the boundaries of single-member constituencies in the 2020 parliamentary elections were decided upon by political actors, which led to significant deviations in voters' representation in constituencies.

<sup>16</sup> OSCE/ODIHR *Elections Recommendations Databases* <https://paragraph25.odihr.pl/> Georgia <https://paragraph25.odihr.pl/search?dayOfElection=2020-10-31T00%3A00%3A00.000Z&page=1&projectBeneficiary=Georgia&typeOfElection=Parliamentary&yearOfElection=2020&yearOfElection=2020> Moldova <https://paragraph25.odihr.pl/search?dayOfElection=2020-11-01T00%3A00%3A00.000Z&page=1&projectBeneficiary=Moldova&typeOfElection=Presidential&yearOfElection=2020&yearOfElection=2020>;

Ukraine <https://paragraph25.odihr.pl/home-page-countries/ukraine/> Accessed 1 November 2021.

<sup>17</sup> RFE/RL's Armenian Service (2021) *Armenian Parliament Approves Changes To Electoral System*, 1 April 2021, [www.azatutyun.am/a/31181996.html](http://www.azatutyun.am/a/31181996.html) Accessed 1 November 2021; Freedom House (2021) *Georgia: Government and Opposition Join Forces on Electoral Reform Compromise* <https://freedomhouse.org/article/georgia-government-and-opposition-join-forces-electoral-reform-compromise> Accessed 5 November 2021; Euractiv *Georgian parliament approves electoral reform, moving step away from political crisis*, 1 July 2021. [www.euractiv.com/section/eastern-europe/news/georgian-parliament-approves-electoral-reform-moving-step-away-from-political-crisis/](https://www.euractiv.com/section/eastern-europe/news/georgian-parliament-approves-electoral-reform-moving-step-away-from-political-crisis/) Accessed 6 November 2021.

All EaP countries have some restrictions on **suffrage rights**, which is in contradiction of international standards and norms. Restrictions limit the suffrage rights, for example, of individuals with mental disabilities, people in prison or in pre-trial detention centres. In Belarus and Azerbaijan there is severe discrimination against political opponents, former political prisoners and prisoners of conscience wishing to stand for election. Meanwhile, in Ukraine, a recent legal amendment has limited the right of independent candidates to run for council and mayoral elections to communities of up to 10,000 voters. Ukrainian authorities have also continuously failed to ensure the voting rights of citizens with mental and intellectual disabilities.

Regarding the **organisation of elections**, legislation exists in all EaP countries, apart from Belarus, for safeguards against political interference into election management bodies. However, a low level of trust in Central Election Commissions (CECs) is still pervasive. The transparency of election management bodies varies across the region. For example, in Georgia, selective open sessions are held, whilst live streaming of all CEC sessions occurs in Armenia, Moldova and Ukraine. Moldova's CEC was reported to be inadequately resourced and as a result, it has been unable to ensure effective oversight of election campaign financing.

**The secrecy of the ballot** is ensured in all countries, apart from Azerbaijan. After Ukraine criminalised the violation of secret balloting in 2020 the number of occurrences palpably reduced. Meanwhile, in Moldova the secret ballot was challenged by the rise of so-called 'ballot selfies' in recent elections, for which there are currently no sanctions. Video surveillance of voting as a remedy against fraud is used in Armenia, Georgia and Moldova. Ukraine and Moldova also use online voter registers to prevent multiple voting. The reporting period found that, despite being criminalised, vote buying has not abated. A further problem highlighted was the inaccessibility of polling stations in Armenia, Moldova and Ukraine. This situation was improved considerably in Georgia, after 31% of stations were adapted for wheelchair users.

Electoral legislation in five out of six EaP countries provides for an inclusive approach to the **accreditation of election observers**, though some deviations do exist. For example, Ukraine bans the accreditation of nominees from the Russian Federation, a practice at odds with international standards.

Election observation became deeply restricted in Belarus, with authorities instrumentalising the pandemic to limit the number of observers allowed in polling stations to a maximum of five. Due to the government's rules only 11.6% of registered domestic observers were allowed to observe early voting at polling stations.<sup>18</sup> Moreover, in the absence of a timely invitation from authorities, OSCE / ODIHR and PACE were precluded from observing candidate registrations and also from deploying observation missions.<sup>19</sup> Meanwhile, domestic and international observers also faced impediments in Azerbaijan during ballot counting and tabulation. According to the Venice Commission, the political affiliation of some citizen's observers' groups in Azerbaijan undermined the credibility of their reports and contradicted the global principle of non-partisan election observation and monitoring.<sup>20</sup>

Regarding **electoral campaigning**, all EaP countries have legal frameworks in place for fair and equitable candidate registration processes, which comply with international standards, that is apart from Moldova and Ukraine. In Moldova, independent candidates face disproportionately high registration requirements, when compared with parties and electoral blocs. Meanwhile, in Belarus, the registration process remains opaque. Three opposition candidates in the presidential election in 2020 were denied registration on spurious grounds and two were subsequently jailed.<sup>21</sup>

An independent state mechanism for identifying media bias in elections only exists in Georgia, Moldova and Ukraine. Weak enforcement measures, however, mean that such mechanisms do not necessarily ensure fair and equitable conditions for all electoral contestants for political advertisements and debates on private media outlets (which are often controlled by political and economic

<sup>18</sup> Viasna (2020) *2020 Presidential Election. Report on Election Observation*, <http://spring96.org/en/news/98942> Accessed 11 November 2021.

<sup>19</sup> OSCE Rapporteur's Report under the Moscow Mechanism on Alleged Human Rights *Violations related to the Presidential Elections of 9 August 2020 in Belarus*, 5 November 2020, <https://www.osce.org/files/f/documents/2/b/469539.pdf> Accessed 1 November 2021.

<sup>20</sup> Council of Europe Venice Commission (2012), *Declaration of Global Principles for Non-partisan Election Observation and Monitoring by Citizen Organizations and Code of Conduct*, [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2012\)018-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2012)018-e) Accessed 20 October 2021.

<sup>21</sup> Sjarhei Tsikhanouski, Valery Tsapkala and Viktor Babaryka.

groups). Whilst all EaP countries have rules in place for financial reporting by candidates and parties, only Armenia, Georgia and Azerbaijan have independent mechanisms designed to oversee campaign financing. The effectiveness of such mechanisms is weakened, however, by the fact that irregularities in financial reporting are seldom sanctioned, and if they are, it generally comes in the form of a warning or a tokenistic small fine.

On the question of **electoral competitiveness** Azerbaijan and Belarus remain outliers to international norms, with OSCE / ODIHR reports from 2020 confirming the enduring authoritarian nature of these states. In this context, Azerbaijan was described as having a 'restrictive legislation and political environment',<sup>22</sup> whilst ODIHR reported that the massive human rights violations carried out before, during and after the 2020 presidential elections (in Belarus) prevented genuine competition.<sup>23</sup>

## RECOMMENDATIONS

### To civil society:

- Prioritise effective civic and electoral education campaigns before and in-between elections and work with national and European parliaments in this regard.
- Work on awareness raising and publicity of ODIHR and Venice Commission mandates, reports and recommendations.
- Share experience and best practices in election observation and monitoring, civic education and awareness raising campaigns within the EaP.

### To public authorities:

- Proactively monitor the implementation of electoral legislation and procedures in line with the recommendations of international election missions and the Venice Commission.
- Provide adequate legal, financial, human and technical resources for central election bodies to meet their mandates effectively and to repel political interference.
- Ensure that parliaments are properly staffed and that committees have sufficient expert capacities to scrutinise, revise and amend bills and laws.
- Ensure full access to the electoral process for persons with special needs and other vulnerable groups.

### To the EU:

- Include democratic elections (at national and local levels), in line with international standards, as a more direct political condition for EU assistance.
- Help EaP CSOs to observe elections and promote civil and political participation in elections.
- Maintain sanctions against Belarus till the basic requirements for genuine elections are fulfilled and verified as such.

<sup>22</sup> ODIHR (2020) *Election Observation Mission Final Report on early parliamentary elections as of 9 February 2020, Republic of Azerbaijan*, 17 July 2020, [https://www.osce.org/files/f/documents/7/e/457585\\_0.pdf](https://www.osce.org/files/f/documents/7/e/457585_0.pdf) Accessed 30 October 2021.

<sup>23</sup> OSCE Rapporteur's Report under the Moscow Mechanism on Alleged Human Rights Violations related to the Presidential Elections of 9 August 2020 in Belarus, 29 October 2020, [www.osce.org/files/f/documents/2/b/469539.pdf](http://www.osce.org/files/f/documents/2/b/469539.pdf) Accessed 7 November 2021.



## HUMAN RIGHTS AND PROTECTION AGAINST TORTURE

HUMAN RIGHTS AND PROTECTION AGAINST TORTURE	
RANK	2020/21
UKRAINE	0.91
MOLDOVA	0.84
ARMENIA	0.82
GEORGIA	0.69
AZERBAIJAN	0.49
BELARUS	0.15

**Considerable progress was recorded in the case of Ukraine, which became the scorecard leader by a significant number of points. Moldova also saw progress and secured second place. The largest jump in points from the 2017 Index was found in the case of Armenia, which resides in third place in 2021. In contrast, Georgia's score was characterised by inertia, which pushed it down the scorecard to fourth place. Belarus resides at the bottom of the scorecard with a strikingly low score, which illustrates its outlier status.**

The Index found that even when legislative changes were made, practical improvements did not always swiftly follow. Moreover, authoritarian regimes were able to double down on their anti-human rights policies and practices under the overlay of pandemic lockdowns. For example, the media suggested that authorities in Belarus were engaging in the intentional spread of the COVID-19 virus amongst prisoners.<sup>24</sup> It was also recorded that many lawyers were being disbarred for assisting victims of political repression. The human rights situation in Azerbaijan did not improve after the military conflict over Nagorno-Karabakh. Persecution of activists and the use of illegal methods of inquiry persisted. Moreover, restrictions were placed on human rights defenders, including the exclusion of lawyers from legal processes that are not members of the Bar Association. Whilst the government of Azerbaijan pardoned large numbers of prisoners, including some political prisoners, human rights defenders point out that many innocent people remain incarcerated.

All EaP countries are signatories to UN human rights pacts and conventions, though the recognition of **individual complaints mechanisms** for human rights violations by UN treaty committees is unequal. Ukraine is amongst those countries that have recognised the highest number (between seven and nine committees), whilst Belarus has recognised the least (from one to three).<sup>25</sup> All countries except for Belarus have acceded to the Optional Protocol to the UN Convention against Torture (OPCAT). Nevertheless, despite some improvements in this sphere, the **practice of torture** remains a major

problem for all countries in the region, including in areas of Ukraine that are not controlled by the central government.<sup>26</sup>

The implementation of decisions from **UN mechanisms** face problems in EaP states. For example, decisions of UN human rights treaty bodies are not being implemented in Belarus and Azerbaijan and problems are also apparent in Armenia and Georgia. The persecution of CSOs and human rights defenders for cooperating with UN mechanisms is recorded in Belarus. Meanwhile, in Azerbaijan, the problem of non-implementation of decisions of the European Court of Human Rights persists. Delays in submitting reports to international human rights mechanisms have been recorded in Belarus, Armenia and Georgia.

All countries except Belarus sent standing invitations for country visits to the **Special Procedures of the Human Rights Council**. However, UN Special Procedures did not conduct any site visits to EaP countries during the reporting period.<sup>27</sup> At least one visit was postponed during the pandemic and Belarus officially rejected a request from the UN Special Rapporteur on Torture. Ukraine is preparing for a visit from the working group on discrimination against women and girls.

In all EaP states conditions in **prisons and penitentiary institutions** do not fully comply with European standards. Armenia pursued efforts to implement its international obligations in human rights and protections against torture, including raising standards

<sup>24</sup> Voice of America News (2020) *Virus Besets Belarus Prisons Filled With President's Critics*, 26 December 2020, [www.voanews.com/a/covid-19-pandemic-virus-besets-belarus-prisons-filled-presidents-critics/6200023.html](http://www.voanews.com/a/covid-19-pandemic-virus-besets-belarus-prisons-filled-presidents-critics/6200023.html) Accessed 9 November 2021.

<sup>25</sup> OHCHR (2019) *Acceptance of 9 Individual Complaints Procedures*, 31<sup>st</sup> December 2019, [https://www.ohchr.org/Documents/Issues/HRIndicators/IndividualCommunications\\_map.pdf](https://www.ohchr.org/Documents/Issues/HRIndicators/IndividualCommunications_map.pdf) Accessed 3 November 2021.

<sup>26</sup> OHCHR (2021) *Report on the human rights situation in Ukraine*, 23 September 2021, [www.ohchr.org/Documents/Countries/UA/32ndReportUkraine-en.pdf](http://www.ohchr.org/Documents/Countries/UA/32ndReportUkraine-en.pdf) Accessed 9 November 2021.

<sup>27</sup> OHCHR *Schedule of country visits by UN Special Procedures of the Human Rights Council since 1998*, <https://spinternet.ohchr.org/ViewCountryvisits.aspx?visitType=completed&lang=En> Accessed 9 November 2021.

in penitentiary institutions, where material conditions vary from ‘very poor’ to ‘just about acceptable’ and where inter-prisoner violence persists.<sup>28</sup> In Moldova, conditions in prisons are not in compliance with European detention standards. In light of this, in 2018 the legislator amended the Criminal procedure Code, to enable victims to seek a reduction in their prison term for detention in inhumane conditions.

In Belarus, the number of **political prisoners** has exceeded 800. Hundreds more are likely to be added in the future as thousands of criminal cases initiated during and after the presidential election in August 2020 continue unabated. Furthermore, no investigations against police or military officers responsible for torture have been recorded; deaths of protesters are not investigated and perpetrators have impunity and go unpunished.<sup>29</sup> The government strongly rejects UN mechanisms, including non-recognition of a mechanism to investigate violence and torture and other human rights violations in connection with the presidential elections in August 2020.<sup>30</sup>

On April 5, 2021, the Ukrainian government introduced a draft law in parliament amending the Criminal Code on **liability for torture**. The

draft law abolishes the statute of limitations for torture, as well as bringing the definition of torture in line with international standards. On May 20, 2021, the parliament passed a law amending some legislative acts on the implementation of international criminal and humanitarian law. The law establishes universal jurisdiction over the commission of international crimes, including responsibility for torture and other inhuman treatment in connection with an international armed conflict or an armed conflict of a non-international nature. The law is awaiting the president’s signature at the time of writing.

OHCHR gained unimpeded access to official places of detention in the government-controlled territory of Ukraine, including confidential interviews with detainees. OHCHR had no access to territories currently beyond Kiev’s control, despite repeated requests for this. Credible allegations of torture persist and detention conditions reportedly do not meet international standards. In the Autonomous Republic of Crimea and the city of Sevastopol, disappearances, torture and ill treatment by Russian Federal Security Service (FSB) continued to be documented, as well as violations of the right to fair trial.<sup>31</sup>

<sup>28</sup> Council of Europe (2021) *Council of Europe anti-torture Committee publishes 5th periodic visit report on Armenia*, 26 May 2021, [www.coe.int/en/web/yerevan/home/-/asset\\_publisher/KZTSm796kFrq/content/council-of-europe-anti-torture-committee-publishes-5th-periodic-visit-report-on-armenia?\\_101\\_INSTANCE\\_KZTSm796kFrq\\_viewMode=view/](https://www.coe.int/en/web/yerevan/home/-/asset_publisher/KZTSm796kFrq/content/council-of-europe-anti-torture-committee-publishes-5th-periodic-visit-report-on-armenia?_101_INSTANCE_KZTSm796kFrq_viewMode=view/) Accessed 2 November 2021.

<sup>29</sup> Even in the cases of the close-range shootings of victims Andrey Taraikovskiy, Gennady Shutov or after the beating of Roman Bondarenko, which resulted in his death, with video evidence, those responsible have not been prosecuted.

<sup>30</sup> In May 2021 UN High Commissioner Michelle Bachelet announced the appointment of three high-level experts to the UN Human Rights Office’s fact-finding mission on Belarus to assist her in conducting a comprehensive examination of alleged human rights violations committed in Belarus since 1 May 2020, including the possible gender dimension of such violations. In its resolution 46/20, adopted on 29 March 2021, the UN Human Rights Council condemned the ongoing grave violations of human rights in Belarus in connection with the 2020 presidential election. It requested the UN High Commissioner for Human Rights to monitor and report on the situation of human rights in the country, and to collect, consolidate, preserve and analyse information and evidence with a view to contributing to accountability for perpetrators and justice for victims and, where possible, to identify those responsible. UN (2020) *Resolution adopted by the Human Rights Council on 24 March 2021 - Situation of human rights in Belarus in the run-up to the 2020 presidential election and in its aftermath*, 29 March 2021, <https://undocs.org/A/HRC/RES/46/20> Accessed 4 November 2021.

<sup>31</sup> UN Ukraine (2021) *Enforced disappearances in the autonomous Republic of Crimea and the city of Sevastopol, Ukraine temporarily occupied by the Russian Federation*, 31 March 2021, <https://ukraine.un.org/en/123652-enforced-disappearances-autonomous-republic-crimea-and-city-sevastopol-ukraine-temporarily> Accessed 10 November 2021.



## CHIPPING AWAY AT IMPUNITY? TORTURE AND LAW ENFORCEMENT AGENCIES IN UKRAINE

Ukraine made significant advances in establishing liability for torture in accordance with international norms, which included progress in strengthening capacities for investigating and prosecuting law enforcement officials for torture and excessive use of power and authority.

A specialised department, the ‘Department for Procedural Guidance in Criminal Proceedings on Torture and Other Serious Violations of Citizens’ Rights by Law Enforcement Agencies’ was established within the Prosecutor General’s Office in 2019. The Department’s creation was a response to calls from the Council of Europe over previous years for Ukraine to develop state capacities to support the State Bureau of Investigation (SBI) and to provide procedural guidance on human rights crimes carried out by law enforcement officials.<sup>32</sup> According to a report by the Open Society Justice Initiative, when the Department started its operations it found around 200 complaints of Police torture that should have been passed on to the State Bureau of Investigations, but instead were being investigated by the Police themselves.<sup>33</sup> Operational since 2020, the Department has a head of unit and nineteen prosecutors. As well as providing procedural guidance to the SBI’s investigations on torture and ill treatment, it can also carry out its own investigations. It also performs a coordination function amongst regional prosecutor’s offices, as part of its remit for investigation and conducts nationwide pattern analyses regarding cases of illegal detentions and acts of torture by law enforcement bodies.

Between 2020 and 2021, the Department of the Prosecutor General, together with the SBI initiated 72 cases of excess of authority or official powers (Criminal Code Article 365) and 24 cases of torture (Criminal Code Article 127). In the first six months of 2021, 32 crimes of torture were registered, six law enforcement officers were suspected and five were charged and cases brought to court.

In 2020 the SBI and Department of the Prosecutor General carried out investigations, which led to the charging of two police officers in Kaharlyk with ‘enforced disappearance’ for their failure to properly register the detention of two people, who were allegedly assaulted, including sexual assault. The former head of the local Police Department was also charged with criminal negligence. Subsequent to this, other alleged survivors of torture in Kaharlyk came forward. Five police officers from Kaharlyk were charged with unlawful deprivation of liberty and torture.<sup>34</sup>

## RECOMMENDATIONS

- The momentum of joining international human rights mechanisms should be supported. Reporting needs to be carried out routinely and strictly as per membership commitments. General recommendations and decisions on individual complaints need to be fully and swiftly implemented.
- Structural factors which are conducive to torture, namely impunity for violations, poor prison conditions, the dependence of courts on the executive etc. should be swiftly addressed and remedied.
- The EU should consider providing practical and technical assistance to support authorities’ efforts to implement international mechanisms and to render national mechanisms more effective and fit for purpose.
- Procedures for the development of human rights action plans with the maximum involvement of CSOs at the earliest possible stages of design should be supported.

<sup>32</sup> Council of Europe (2018) Report to the Ukrainian Government on the visit to Ukraine carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 8 to 21 December 2017, 6 September 2018, <https://rm.coe.int/16808d2c2a> Accessed 13 October 2021.

<sup>33</sup> Open Society Justice Initiative (2021) *Who Polices the Police: The Role of Independent Agencies in Criminal Investigations of State Agents*, <https://www.justiceinitiative.org/uploads/22a98f2b-d122-4d23-9c4b-0158099d9692/osji-who-polices-the-police-20210507.pdf> Accessed 18 October 2021.

<sup>34</sup> Amnesty International (2021) *Ukraine 2020*. [www.amnesty.org/en/location/europe-and-central-asia/ukraine/report-ukraine/](http://www.amnesty.org/en/location/europe-and-central-asia/ukraine/report-ukraine/) Accessed 22 October 2021.

## STATE ACCOUNTABILITY

STATE ACCOUNTABILITY	
RANK	2020/21
GEORGIA	0.88
UKRAINE	0.86
ARMENIA	0.75
MOLDOVA	0.73
BELARUS	0.47
AZERBAIJAN	0.41

**Georgia resides at the top of the scorecard in state accountability, with Ukraine taking second place, which is a repeat performance of the results of the 2017 Index. Armenia progressed in its reforms to move ahead of Moldova to take third place. Both Belarus and Azerbaijan accrued points, however, they still reside at the bottom of the scorecard. The gap between the two lowest scorers and the top four is considerable.**

The condition of state accountability across the EaP region is uneven, with the COVID-19 pandemic contributing to instances of diminishing democratic oversight and transparency. It revealed symptoms of weak parliamentary oversight and powers of scrutiny, especially in relation to the security sector.

The **right of the legislature to summon representatives from the executive** did not register significant changes in the 2021 Index. In the Associated Trio this right is ensured by the Constitution and parliamentary rules of procedure. Meanwhile, in Armenia, Azerbaijan and Belarus this right is largely absent. In Armenia, an attempt was made to amend the rules of procedure in this sphere, but did not bring any significant changes thus far.

In five of the six EaP countries **rules of oversight** have been changed. In three of the five this included additional oversight measures, whilst in the other two, degrees of oversight were either diminished or reduced in the context of national security legislation. Parliamentary standing committee members have the right to request information from the executive branch in all EaP states. However, access to information is limited when it comes to classified data. In Azerbaijan access to information was reduced, through amendments to the Law on ‘commercial secrets’.

The equal **participation of opposition** MPs in independent investigations is not possible in Armenia, Azerbaijan and Belarus. In contrast, in Georgia, Moldova and Ukraine, MPs from opposition or minority groups can contribute with proposals on both subject matter and on the mandates of investigative committees. However, in practice, the investigation of activities of the executive branch only happened in the case of Moldova.

In a number of cases, EaP Parliaments have serious staffing problems and in the case of the Associated Trio, a lack of expertise on AA and DCFTA-related issues was recorded. Staffing was insufficient for tasks associated with ensuring correct oversight of legislation and developing and tracking amendments, as well as supporting the activities of standing committees.

The scope of Parliament’s scrutinising role is also limited by the fact that it is not standard practice for MPs from opposition parties to chair parliamentary standing committees in all six states. This is compounded in the cases of Azerbaijan, Belarus and Georgia, where there are no procedures in place for opposition parties to formulate the parliamentary agenda.

In all states, aside from Azerbaijan, Parliament enjoys representation in the Supreme Security Council. However, only in the cases of Armenia and Georgia, are the decisions of the Supreme Security Council actually subject to parliamentary scrutiny. Furthermore, the budgets of intelligence and security services are far from transparent in all EaP countries, with only three out of six EaP Parliaments actively carrying out detailed reviews of budgets.

EaP countries all have legal frameworks for the **involvement of civil society** in the reviewing and drafting of legislation. However, reality suggests that they are not being effectively implemented. The capacity of CSOs to play a meaningful role in legislation in Azerbaijan and Belarus is also limited by the fact that external funding of CSOs is either prohibited or limited.

## LAW ENFORCEMENT AND CIVIL SOCIETY - A NOVEL STEP IN STATE ACCOUNTABILITY IN ARMENIA?

Armenian CSOs became actively involved in the reform of the police force.<sup>35</sup> The current round of reforms of national law enforcement agencies aim to bolster earlier attempts at reforms after the Velvet Revolution, which proved to be insufficient. Moreover, the rationale of reforms is also to do with cases of police impunity, instances of the excessive use of force and the perceived need for greater police accountability.

Armenian CSOs were involved in parts of the reform process associated with the 'reinterpretation of the community police', which is part of the restructuring of the police force in line with the 2020-2022 National Action Plan and its re-organisation into a Ministry of Internal Affairs. CSOs participated in establishing the new norms of the community police force and also in the selection and vetting of community police officers, which was a novel development and was generally viewed as having a positive outcome. Community police will work as patrol police and in effect take over from the previous roles played by road and operational police.

Two main lessons or considerations emerge from the Armenian experience. First, though it is difficult to ascertain whether this relatively small initiative will develop into a broader and systematic formula to involve CSOs in the reform of law enforcement agencies more generally, it is a potential model for other EaP states to consider. Second, it raises important questions regarding follow-up and the sustainability of the initiative. Crucially, if CSOs are going to be effective and able to act as an anchor for assuring greater police accountability, they need to be able to continue to monitor the new community police force alongside wider reforms going on in the justice sector.

## RECOMMENDATIONS

- Continue to work towards implementing rules of oversight in line with international standards and in particular those mechanisms that will help bridge the apparent legislative – implementation gap.
- Consider legislative and procedural changes to enable the fuller participation of opposition MPs in the mandate, agenda setting and running of Parliamentary committees.
- Set up effective staffing and recruitment strategies to encourage qualified people to become parliamentary staffers in order to populate committees with experts able to scrutinise and amend legislation, where necessary.
- The Associated Trio should focus on recruiting and training parliamentary staffers with requisite expertise on AA and DCFTA matters.

<sup>35</sup> Armenian Ministry of Justice (2020) *Police Reform Strategy of the Republic of Armenia approved*, <https://www.moj.am/en/article/2706> April 23 2020, Accessed 1 November 2021.

## INDEPENDENT MEDIA

INDEPENDENT MEDIA	
RANK	2020/21
ARMENIA	0.67
GEORGIA	0.59
MOLDOVA	0.55
UKRAINE	0.54
BELARUS	0.20
AZERBAIJAN	0.04

Though there are instances of diversity within some EaP media landscapes, on the whole the industry remains polarised and characterised by the excessive influence of politicians and oligarchs and in the cases of Azerbaijan and Belarus by government authorities. The COVID-19 pandemic and its fallout served to amplify these existing tendencies in a number of ways. First and foremost, attention and resources, previously dedicated to improving the independence of the media was diverted to urgent pandemic-related issues. Second, authorities placed restrictions on access to information, thus diminishing the quality of reporting on matters to do with the COVID-19 pandemic and also reducing public knowledge at a time of crisis.

The most challenging situation arose in Belarus. Violent attacks and pressure on the independent media and journalists in the context of the presidential elections and subsequent protests reached unparalleled levels. Before and after the elections, authorities systemically disrupted the work of both domestic and international media, detaining 481 journalists and prosecuting 30 with criminal charges.<sup>36</sup> New amendments to the Law on 'Mass Media' came into force in Belarus in June 2021, which reinforced state control over the media and journalist's accreditation, the content of reporting and also the use of the Internet.<sup>37</sup> Moreover, **defamation** remains a criminal offence in Belarus, as well as in Azerbaijan, with journalists facing detention or imprisonment along with potential travel bans.

**All states apart from Armenia experienced backsliding or inertia with regards to independent media. In contrast, Armenia progressed and rose from fourth position in 2017 to first in 2021. The Associated Trio took second, third and fourth places. Azerbaijan's score reduced significantly, which kept it at the bottom of the scorecard, whilst Belarus took fifth place.**

Meanwhile, the case of Moldova suggests that whilst a pro-European party with a democratic agenda can win elections, it does not follow that greater media independence will swiftly follow. Vested interests linked to previous regimes and oligarchic structures still remain in place, to some degree, and comprehensive measures will be required to root them out over time.<sup>38</sup> Meanwhile, the challenge of **external propaganda and internal disinformation** intensified in Moldova after a repeal in December 2020 of the so-called 'Anti-propaganda Law' which set quotas for local production and promotion of local independent media to protect the country's information security from external encroachment. It's re-introduction in the future may well occur.<sup>39</sup>

Armenia saw disproportionate restrictions placed on the media during its state of emergency, which resulted in a number of cases of social media users being forced by the police to remove posts about the virus. Armenia's restrictions also curtailed public access to objective information about the situation on the frontline of the conflict in Nagorno-Karabakh. Meanwhile, in Azerbaijan, whilst martial law was not imposed, strict control over information flows was asserted by the government, which impacted on the work of both domestic and foreign journalists.

In Ukraine in February 2021 **sanctions** were imposed on a number of legal entities and persons by a special decision of Ukraine's

<sup>36</sup> Belarusian Association of Journalists (2021) *Repressions against Journalists in Belarus*, 5 June 2021, <https://baj.by/en/analytics/repressions-against-journalists-belarus-2021-chart> Accessed 8 November 2021.

<sup>37</sup> Human Rights Watch (2021) *New Laws further Stifle Freedom of Speech in Belarus*, 7 April 2021, [www.hrw.org/news/2021/04/07/new-laws-further-stifle-freedom-speech-belarus](http://www.hrw.org/news/2021/04/07/new-laws-further-stifle-freedom-speech-belarus) Accessed 30 October 2021.

<sup>38</sup> Freedom House (2021) *Moldova: Stakeholder Submission on Media Freedom for the Universal Periodic Review*, 23 July 2021, <https://freedomhouse.org/article/moldova-stakeholder-submission-media-freedom-universal-periodic-review> Accessed 9 November 2021.

<sup>39</sup> Freedom House (2021) *Moldova*, <https://freedomhouse.org/country/moldova/nations-transit/2021> Accessed 12 November 2021.

Security Council. This resulted in the suspension of three TV channels, because of their affiliation with political agents allegedly cooperating with Russia.<sup>40</sup>

With regards to threats and the intimidation of journalists, Georgia saw verbal and physical attacks on journalists occurring with greater frequency, with many of the perpetrators coming from religious or far right groups. 53 journalists were injured in recent LGBTQI+ assemblies and to date no proper investigations or punishments for these types of attacks have been carried out.<sup>41</sup>

## RECOMMENDATIONS

### To civil society:

- Increase the media's sensitivity towards hate speech and fake news and show why this is of value to the public good.
- Back the professional community in its efforts to promote legislative and procedural changes to improve the environment for independent media and freedom of access to public information. Ensure the consistent enforcement of changes in accordance with international obligations and standards.

### To public authorities:

- Reverse restrictive regulatory mechanisms that limit independent media and learn from progressive best practices.
- Fully respect participatory and consultative processes when addressing media legislation and regulations. Create pandemic-proof procedures and mechanisms so that future situations can be avoided when authorities avoid proper consultations with CSOs and professional bodies.

### To the EU:

- Take stricter and more vociferous positions vis-à-vis occurrences of systematic violations of media freedom in EaP states.
- Develop documents defining the various forms and types of censorship to ensure a deeper awareness of the problem amongst all EaP stakeholders.
- Be consistent with the message that constitutional guarantees against censorship need to be thoroughly and consistently implemented.

<sup>40</sup> TV channels owned by Victor Medvedchuk, who is considered to be a politician with close links to Russia, were actively disseminating the Kremlin's messages, thus contradicting Ukrainian national interests, according to some sources. The official reasons given for the suspension of his channels were to do with economic and financial issues. Over the course of 2021 the scope of the government's investigation in to Medvedchuk has widened. RFE/RL (2021) *Zelenskiy Defends Decision To Block TV Channels Controlled By Russia-Linked Magnate*, 4 February 2021, <https://www.rferl.org/a/ukraine-medvedchuk-tv-channels-zelenskiy-defends-ban/31085877.html> Accessed 10 November 2021.

<sup>41</sup> OMCT SOS-Torture Network (2021) *Georgia: Acts of violence against civil society organisations, journalists and LGBTQ+ activists*, 9 July 2021, <https://www.omct.org/en/resources/urgent-interventions/georgia-acts-of-violence-against-civil-society-organisations-journalists-and-lgbtq-activists> Accessed 8 November 2021



## FREEDOM OF OPINION AND EXPRESSION, FREEDOM OF ASSEMBLY AND ASSOCIATION

FREEDOM OF OPINION AND EXPRESSION, FREEDOM OF ASSEMBLY AND ASSOCIATION	
RANK	2020/21
ARMENIA	0.84
MOLDOVA	0.83
UKRAINE	0.66
GEORGIA	0.64
AZERBAIJAN	0.29
BELARUS	0.09

**Both Armenia and Moldova significantly improved their scores between 2017 and 2021 to gain the top two places. Ukraine and Georgia experienced considerable backsliding and took third and fourth positions respectively. Azerbaijan's score saw significant appreciation since 2017 thus it rose to fifth place, which left Belarus at the bottom of the scorecard. Notwithstanding Azerbaijan's higher score, the gap between the two lowest scorers and the top four scorers is considerable.**

Restrictions to the freedom of speech and assembly emerged across the region. Whilst the challenges faced by CSOs in EaP states were analogous in many ways to their counterparts in the EU, prevailing situations in the EaP region intensified the pandemic's impact on the enabling environment for CSOs.

Whilst the right to **freedom of opinion and expression** is legally protected in all EaP countries, reality suggests that not only is there an implementation gap in many states, but also that there is lingering potential for a rapid deterioration of conditions. The situation worsened so profoundly in Belarus that it is arguably impossible to place the country within the same analytical framework as the other EaP states. With over 800 political prisoners and over 30 journalists in detention, the liquidation of hundreds of CSOs and the rise of widespread repression, authority's actions have made the country an outlier in the area of fundamental freedoms and rights.

**Hate speech** against specific groups, such as women, Roma, LGBTQI+ or persons with disabilities remains widespread in EaP countries, and was noticeable during the elections in Moldova and protests in Georgia. There is currently no legislation against hate speech in Georgia and Ukraine.

In Belarus authorities misused laws against radicalism and extremism to restrict freedom of expression. After the 2020 elections, law enforcement authorities blocked websites and denounced followers of certain social media channels' as extremists. It is also well

documented that authorities prosecuted and imprisoned journalists and bloggers on the basis of their public outreach activities, with many others being subjected to significant fines or prolonged detention for the possession and distribution of 'extremist' materials.

In the Donbas region of Ukraine, under the **pretext of security measures**, the Ukrainian government took steps to regulate the contents of media outlets. Government institutions also banned the work of some Russian actors, filmmakers, and singers, and also sanctioned and barred some TV channels, on grounds of state security. In a similar vein, freedom of expression on the Internet was further restricted in Azerbaijan, which led to a spike in detentions and sentencing. Authorities banned the website of Caucasus Talks and anti-war activists were subjected to repression by the government and threats and insults on social media.

Freedom of Assembly is guaranteed in the laws of all EaP countries,<sup>42</sup> though as with freedom of expression, its implementation is problematic and often falls short of European standards.

In Azerbaijan the government's lack of pandemic preparation and disproportionate restrictions on people's movements prompted rallies with subsequent police violations. For example, when citizens were forbidden from throwing away their rubbish, 'trash' demonstrations erupted and the next day police officers detained participants, filmed them in their underwear and then posted videos on the Internet to intimidate citizens from protesting again.<sup>43</sup> Furthermore, shortly after the Nagorno-Karabakh conflict,

<sup>42</sup> Ukraine is the only EaP country without a stand-alone law on assembly. However, the right to freedom of assembly is enshrined in the Constitution and is operationalised through local regulations.

<sup>43</sup> BBC (2020) *What happened in Yasamal*, June 2020, <https://www.bbc.com/azeri/azerbaijan-52994225> Accessed 6 November 2021.

injured soldiers who had assembled in front of government buildings to demand social security payments in respect of their conflict-related disabilities were met with excessive police force.<sup>44</sup>

Even before the Presidential elections of 2020, Belarus had a highly restrictive legal framework and poor record on guaranteeing the right to freedom of peaceful assembly. However, these rights were stifled even further by new restrictive amendments adopted in May 2021.<sup>45</sup> Authorisation for mass assemblies is mandatory in Belarus, which in practice amounts to a ban. Further restrictions, including the requirement to sign a contract with the militia and city cleaning services to police and clean up after assemblies, exuberant fees and liability placed on the shoulders of organisers for any violations during the assembly, essentially preclude the implementation of the right to freedom of assembly in practice. Moreover, police violence and deaths of protesters which were reported after the 2020 elections were not properly investigated, which puts into question whether the right can be implemented in the near future and be protected by law.

Meanwhile, cases of **arbitrary interruption or dispersal of peaceful assemblies** in Azerbaijan, Belarus, Georgia and Ukraine were recorded. Furthermore, pressures on citizens to force them to participate or not to participate in an assembly, as well as cases of preliminary detentions to prevent an assembly from happening were reported in all countries, except for Moldova and Ukraine.

Death and serious injuries during participation in peaceful assemblies were reported in all countries, apart from Armenia. In Georgia on July 5, 2021, authorities refused to use legal police measures against violence by radical groups aimed at journalists and supporters of the 'March for Dignity', organised by the

LGBTQI+ community. Amongst the many who were injured, one journalist succumbed to his injuries and later died.<sup>46</sup> Meanwhile, in Moldova, during a veterans' protest in July 2020, several participants were arrested and beaten by security forces in front of the Parliament building.<sup>47</sup>

**Freedom of association** is constitutionally guaranteed in all EaP countries, but is only practiced in Moldova, Georgia, Armenia and Ukraine. **Online registration** of CSOs is possible by law in Georgia and Ukraine and is under development in Armenia. However, in reality, the fully electronic registration of CSOs, which is truly accessible to everyone without in-person involvement, is still elusive.

In Azerbaijan and Belarus foreigners face restrictions with regards to setting up associations, unregistered organisations are outlawed and authorities often forcibly liquidate CSOs. Scores of associations and CSOs were liquidated and terminated through extrajudicial procedures in Belarus. At the time of writing over 200 CSOs have been liquidated by the authorities, which constitutes 10% of all registered CSOs in the country. Furthermore, many members and leaders of human rights, political and youth groups are now in prison.<sup>48</sup> Grounds for prosecution have included charges under the Criminal Code, such as plots to seize power, establishment of an extremist group, actions to harm national security, preparation and participation in mass riots and charges with financial violations, including non-payment of taxes. The reporting period also found searches, seizures of equipment, arrests, dismissals and expulsions of students from universities, as well as criminal prosecution on tax evasion, are everyday occurrences for Belarusian civil society.

Significant restrictions on the receipt of funding from internal and external sources prevail under the pretext of Anti-money Laundering

<sup>44</sup> Time TV news report (2021) *Karabakh veterans beaten by police*, October 2021, <https://www.youtube.com/watch?v=KTY1Z27RnpQ> Accessed 6 November 2021.

<sup>45</sup> Amendments to the Law on Mass Events were signed in May 2021. They revise the order of authorisation, ban on reimbursement of fines, ban on live streaming from assemblies amongst others actions RFE/RL (2021) *Lukashenka Signs Amendments Further Restricting Belarus Protests*, *Media Freedoms*, 14 May 2021, <https://www.rferl.org/a/lukashenka-amendments-restricting-freedom/31270935.html> Accessed 5 November 2021.

<sup>46</sup> Alexandr Lashkarava died as result of injuries received during the protest, which he filmed as a cameraman, CNN (2021) *Scuffles break out in Georgia's Parliament over cameraman's death following anti-LGBTQ demonstration*, 13 July 2021, <https://edition.cnn.com/2021/07/12/europe/georgia-journalist-killed-parliament-intl/index.html> Accessed 6 November 2021.

<sup>47</sup> Moldova.org (2020) *The police used excessive force against the Transnistria war veterans protesting in the city centre of Chisinau*, 17 July 2020, <https://www.moldova.org/en/the-police-used-excessive-force-against-the-transnistrian-war-veterans-protesting-in-the-city-centre-of-chisinau/> Accessed 7 November 2021.

<sup>48</sup> Dozens of people were charged for being members of opposition or human rights organisations, such as the Coordination Council of the Opposition, the Belarusian Student Association, strike committees on plants, as well as the journalist organisation Press Club, the Office for the Rights of Persons with Disabilities and others.

and Counter-Terrorism Financing (AML/CTF).<sup>49</sup> The Belarusian law on AML/CTF obliges banks to check if financial transactions of CSOs correspond with their statutory objectives. Furthermore, in accordance with the new edition of the law, public associations and foundations are required to publish extensive reports about their activities, income and expenses. Complaints about the reporting system for CSOs as being excessive and disproportionate also appear in Azerbaijan and Armenia.

In June 2020 the Moldovan Parliament approved legislation simplifying registration and the payment of membership fees for CSOs, however, at the same time, during the 2020

Presidential Elections there were still attempts from some MPs to discredit and stigmatise CSOs supported by foreign funds. Meanwhile, in Ukraine, where the freedom of association is guaranteed in law, reporting found occasional reports of personal attacks on CSO leaders.<sup>50</sup> Elsewhere, in Armenia associations can receive local, state and international funds, and can also conduct entrepreneurial activities. Registration procedures have been simplified, and getting volunteers involved in CSOs has been made easier. At the same time, some concerns in relation to the extensive nature of annual activity reports being demanded from CSOs were raised.

## RECOMMENDATIONS

### To civil society:

- Work with donors to create best practices for efficient and less burdensome reporting methods on CSO activities and expenditure that are suited to the size and scale of activities and initiatives being supported.
- Share best practice across the EaP region with regards to online CSO registration systems.

### To public authorities:

- Switch to a notification-based procedure for the conduct of peaceful assemblies, which is accessible for organisers, and includes counterdemonstrations and spontaneous events.
- Suspend the practice of issuing criminal liability to the dissemination of information and other restrictions of rights based on charges of extremist activity, which is not related to the direct use of violence.
- Lift bans relating to CSOs operating without registration, entrepreneurial activities and foreign funding.
- Establish functioning mechanisms for online registration of CSOs.

### To the EU:

- Work with CSOs to improve grant-reporting methods to ensure that donors are being thorough, yet reasonable in their expectations.
- Share EU best practice with regards to the electronic registration of CSOs

<sup>49</sup> European Center for Not-for-Profit Law (2021) *Impact of anti-money laundering and countering terrorism financial measures on non-profit organizations in the Eastern Partnership region* <https://csometer.info/sites/default/files/2021-07/EaP%20AML%20CT%2002072021.pdf> Accessed 11 November 2021.

<sup>50</sup> According to some accounts the fire in the house of Vitaliy Shabunin, head of the NGO Anticorruption Centre, had signs of arson. Atlantic Council (2020) *Ukraine's anti-corruption efforts go up in smoke*, 24 July 2020, <https://www.atlanticcouncil.org/blogs/ukrainealert/ukraines-anti-corruption-efforts-go-up-in-smoke/> Accessed 6 November 2021.



## INDEPENDENT JUDICIARY

INDEPENDENT JUDICIARY	
RANK	2020/21
ARMENIA	0.71
MOLDOVA	0.66
GEORGIA	0.57
UKRAINE	0.56
BELARUS	0.50
AZERBAIJAN	0.43

**Despite significant backsliding since 2017, Armenia continued to lead the region with regards to the independence of the judiciary. Moldova's score appreciated to push the country in to second place. Both Ukraine and Georgia observed some degrees of backsliding and took up third and fourth place respectively. Belarus resides in fifth place and Azerbaijan in sixth.**

Problems relating to the independence of the judiciary in EaP countries have been persistent features over the years and no notable milestone achievements were registered. The COVID-19 pandemic was not the cause of problems and backsliding, rather, it highlighted and exacerbated pre-existing issues associated with incomplete reforms, transparency and impartiality, including amongst the Associated Trio. For example, in Ukraine, the Ukrainian High Council of Justice, which was entrusted to bring about a 'complete restart' of the judicial system after the Revolution of Dignity, has yet to deliver tangible results and has been accused of political bias and illegal behaviour. The urgent need for judicial reform was called for by the US Chargé d'Affaires in Ukraine Christina Queen, Head of the EU Delegation in Ukraine, Matti Maasikas and Melinda Simmons, Ambassador of the United Kingdom in Ukraine.<sup>51</sup>

The UN Basic Principles on the Independence of the judiciary establish the basic requirements for the **appointment of judges**, according to which, those selected for judicial office shall be individuals of integrity and ability with appropriate training or qualifications in law.<sup>52</sup> Furthermore, the Council of Europe Committee of Ministers recommends that member states ensure that the authority taking the decision on the selection (and subsequent careers) of judges is independent of the executive and legislature in order that institutional independence is maintained.<sup>53</sup> Whilst legislative frameworks providing for the appointment of judges based on the criteria noted above are generally in place in all EaP countries, a discrepancy exists between law

and actual practice. Legal requirements are either ignored or misinterpreted and consequently judicial appointments are often flawed, and give way to political considerations and 'loyalty'.

In Belarus and Azerbaijan the system of judicial appointments has not changed. In Belarus the President appoints judges in all instance courts, and requires only the formal approval of the Council of the Republic for judicial appointments to the Supreme Court. In Azerbaijan, though judicial committees are set up to run selection processes, the Ministry of Justice is effectively in control, thus judges are effectively 'appointed', as opposed to being elected by independent peer judicial bodies.

In Georgia, in a 2020 report, the Public Defender claimed that the High Council of Justice makes decisions on judicial nominations by 'some informally pre-agreed, pre-coordinated rules, which completely undermines the entire reason of having a collegiate body making decisions based on pluralism, discussion and consensus / agreement.'<sup>55</sup> In a similar vein, it was recorded that in 2020 in Ukraine, the Council, contrary to the requirements of the law, initiated the appointment of around 50 judges who had either not completed the necessary qualification assessment procedure or had failed it.<sup>56</sup>

Meanwhile, in Moldova, signs of a potential positive shift towards international standards was detected, which saw Parliament debating draft constitutional amendments regarding the composition of the Superior Council of Magistracy.

<sup>51</sup> Opinion piece by U.S. Chargé d'Affaires in Ukraine, Christina Queen, Head of the EU Delegation in Ukraine, Matti Maasikas and Melinda Simmons, Ambassador of the United Kingdom in Ukraine, on Ukraine's judicial reform, *Ukrainska Pravda*, August 2021, (in Ukrainian) <https://www.pravda.com.ua/articles/2021/10/20/7311062/> Accessed 4 November 2021.

<sup>52</sup> UN (1985) *UN Basic Principles on the Independence of the Judiciary*, adopted 13 December 1985, [www.ohchr.org/en/professionalinterest/pages/independencejudiciary.aspx](http://www.ohchr.org/en/professionalinterest/pages/independencejudiciary.aspx) Accessed 17 August 2021.

<sup>53</sup> Council of Europe (2010) *Committee of Ministers Recommendation CM/Rec (2010) 12, para. 46*, [https://search.coe.int/cm/Pages/result\\_details.aspx?ObjectID=09000016805afb78](https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016805afb78), Accessed 17 August 2021.

<sup>54</sup> US Department of State (2020) *Azerbaijan 2020 Human Rights Report*, pp. 13-14, <https://www.state.gov/reports/2020-country-reports-on-human-rights-practices/azerbaijan/> Accessed 17 August 2021

<sup>55</sup> *Report on the Situation of Protection of Human Rights and Freedoms in Georgia*, Public Defender of Georgia, 2020, p. 90, <https://www.ombudsman.ge/eng/saparlamento-angarishebi>, Accessed 17 August 2021

<sup>56</sup> Dejure Foundation (2021) *Failures of the High Court of Justice*, <https://vrpfails.dejure.foundation/en> Accessed 18 August 2021.

International norms stipulate that judges should only be **removed in cases of serious misconduct or incompetence**, in accordance with fair procedures that ensure objectivity and impartiality. While legislation in EaP states is not necessarily in contradiction of this principle, reality suggests that authorities will often ignore or bypass legal requirements to retaliate, punish or simply get rid of judges who are seen as disloyal to the political elite or to senior judges. At the extreme edge of this lies Belarus, where it is up to the President of the Republic, to initiate disciplinary proceedings against judges, which contradicts all international standards.<sup>57</sup> Problems exist elsewhere too. For example, Armenian legislation provides guarantees against the arbitrary removal of judges, but there is a lack of appeal mechanisms in place. Meanwhile, in Georgia, the process of disciplinary proceedings against judges still requires amendments to meet all fair trial standards. In Ukraine, credible allegations arose that the High Council of Justice applied double standards in disciplinary proceedings against disloyal and disobedient judges.<sup>58</sup>

National legislative frameworks guarantee **functional immunity to judges** in all EaP countries, but not all provide for guaranteed tenure. Belarusian legislation provides for lifetime appointment, but in reality judges are usually appointed for five years. Judicial tenure until retirement age is guaranteed in Armenia, Georgia, Moldova and Ukraine. However, Georgian and Moldovan legislation sets initial 'trial periods' for appointments, which is not in line with best international standards.

Judicial decisions remain vulnerable to **internal and external political pressures** in all EaP states, especially when it comes to politically sensitive and high profile cases. There have also been credible reports of corruption in the judicial systems of Armenia, Azerbaijan, Belarus and Ukraine.<sup>59</sup>

Moldova presents an interesting case study with regards to **internal influences on the judicial system**, especially in light of the country's recent elections and its reform-minded new government and President. Though Moldovan law always provided for an independent judiciary, in practice it was highly politicised, corrupt and subject to oligarchic control. The lack of an independent judiciary was one of the core elements of state capture, which decimated the proper functioning of the rule of law and affected the socio-economic development of the country. As a result, public trust in state institutions was continuously low and according to the June 2021 Public Opinion Barometer in Moldova, approximately 82% of the Moldovan population still does not trust the judiciary.

In terms of **judicial powers**, it was ascertained that current national legislative frameworks are largely up to date and compliant with international standards. Under the law, the judiciary has exclusive and ultimate jurisdiction over all cases concerning civil rights and liberties across all EaP polities. Legislation provides scope for the reversal of judicial decisions only through the judicial appellate process in all EaP states.

Judicial decisions on the **constitutionality of legislation** and official acts are generally enforced in Armenia, Georgia, Moldova and Ukraine. However, there have been cases where authorities failed to comply with Constitutional Court judgements. In Moldova, four judgements of the Constitutional Court remain unenforced in 2020,<sup>61</sup> and in Georgia, Parliament failed to adopt legislation on the provision of public access to court decisions in compliance with the standards established by the Constitutional Court.<sup>62</sup>

<sup>57</sup> Council of Europe (2020) *Council of Europe Committee of Ministers Recommendation*, CM/Rec (2010) 12, para. 69 [https://search.coe.int/cm/Pages/result\\_details.aspx?ObjectID=09000016805afb78](https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016805afb78) Accessed 17 August 2021.

<sup>58</sup> DeJure Foundation, *The High Council of Justice applies double standards when considering disciplinary cases*, <https://vrpfails.dejure.foundation/en/the-hcj-applies-double-standards-when-considering-disciplinary-cases> Accessed 4 November 2021.

<sup>59</sup> U.S. Department of State (2020) *2020 Country report on human rights practices: Armenia* <https://www.state.gov/reports/2020-country-reports-on-human-rights-practices/armenia/>; *2020 Country report on human rights practices: Azerbaijan* <https://www.state.gov/reports/2020-country-reports-on-human-rights-practices/azerbaijan/>; *2020 Country report on human rights practices: Belarus* <https://www.state.gov/reports/2020-country-reports-on-human-rights-practices/belarus/>; *2020 Country report on human rights practices: Ukraine* <https://www.state.gov/reports/2020-country-reports-on-human-rights-practices/ukraine/> Accessed 6 November 2021.

<sup>60</sup> Institute of Public Policy (IPP) (2021) *Public Opinion Barometer*, June 2021, <https://ipp.md/wp-content/uploads/2021/07/1-Prezentarea-rezultatelor-BOP-2021-iunie-1.pdf> Accessed 6 November 2021.

<sup>61</sup> Constitutional Court of Moldova (2021) *Judgement on the approval of the Report on the Exercise of Constitutional Jurisdiction in 2020*, 11 January 2021, [https://www.constcourt.md/public/files/file/raport\\_anual/h\\_1\\_2021\\_raport\\_en](https://www.constcourt.md/public/files/file/raport_anual/h_1_2021_raport_en) Accessed 5 November 2021.

<sup>62</sup> U.S. Department of State (2021) *2020 Country Reports on Human Rights Practices: Georgia* <https://www.state.gov/reports/2020-country-reports-on-human-rights-practices/georgia/> Accessed 3 November 2021.

Codes of ethics exist in all six EaP countries and judicial candidates and judges are formally required to receive training on judicial ethics both before and after taking office in Armenia, Belarus, Georgia and Ukraine with a view to embedding **accountability and transparency**. However, reporting confirmed the absence of legal remedies to hold judges accountable for illegal activities, especially in Azerbaijan, Georgia, Moldova and Ukraine, where the High Council of Justice has been accused of covering up for corrupt judges. In Ukraine in July 2020 NABU declared that seven DACK judges were suspects in an ongoing investigation.<sup>63</sup>

Manipulation of the **case assignment system** was identified as an issue in Georgia, and happens when the court chairperson reshuffles the composition of narrowly specialised chambers and changes the specialisation of a judge in order to bypass the randomised case assignment process.<sup>64</sup> Meanwhile, in Belarus, cases are distributed without any clear, pre-established criteria and whilst there is a randomised case assignment system in Azerbaijan, final decisions rest with the court chairperson, which creates scope for both arbitrariness and manipulation.

## RECOMMENDATIONS

### To civil society:

- Continue to monitor the activities of high judicial councils, including procedures for hiring, promoting and firing judges.

### To public authorities:

- Recognise that the institutional independence and transparency of judiciaries is effectively blocked and that substantial reforms should be a priority. Reforms should be carried out in good faith and in close cooperation with the EU and CSOs, as well as the Council of Europe and Venice Commission.
- Employ international standards and best practice with regards to judicial appointments.

### To the EU:

- Recognise the urgent need for further reforms in the judiciary and support change in good faith with authorities and CSOs in EaP countries.
- When supporting EaP states in justice reforms pay due attention to nurturing mechanisms to put in place measures to help citizens gain access to justice, such as legal awareness, legal aid and counsel.
- Tie pandemic-recovery support to reform of the justice sector.

<sup>63</sup> DeJure Foundation (2020), *The HCJ covers judges of DACK who were suspected of committing crimes*, <https://vrpfails.dejure.foundation/the-hcj-covers-judges-of-dack-who-were-suspected> Accessed 17 August 2021.

<sup>64</sup> U.S. Department of State (2021) *2020 Country Reports on Human Rights Practices: Georgia* <https://www.state.gov/reports/2020-country-reports-on-human-rights-practices/georgia/> Accessed 3 November 2021.

## EQUAL OPPORTUNITIES AND NON-DISCRIMINATION

EQUAL OPPORTUNITIES AND NON-DISCRIMINATION	
RANK	2020/21
MOLDOVA	0.76
GEORGIA	0.67
UKRAINE	0.67
ARMENIA	0.47
AZERBAIJAN	0.29
BELARUS	0.21

**Moldova became the frontrunner and rose to the top of the scorecard, followed by Georgia whose score also appreciated since 2017. Ukraine lost a considerable number of points and slipped to third place. Armenia's performance was characterised by inertia, keeping it in fourth place, which is a repeat performance of 2017. Azerbaijan's score depreciated significantly since 2017, but Belarus still remained the overall worst performer.**

There were only two instances of EaP states performing better in the sphere of equal opportunities and discrimination than in 2017. Apart from Moldova and Georgia, the general trend was one of inertia and backsliding. Moreover, even in the cases of the two leading states, there were still sizable gaps and deficiencies in their legislative frameworks and practices with regards to the provision of equality of opportunity and anti-discrimination, which puts them at odds with core EU norms.

In amongst the six EaP states Moldova is the standout, by virtue of being the only country in the EaP region with a **fully specialised equality body**: the 'Council for Preventing and Eliminating Discrimination and Ensuring Equality'.<sup>65</sup> Notwithstanding the Council's significance, its operations appear to be limited, since its operational budget has to be approved by the Ministry of Finance and the regulations on its procedures are subject to approval from Parliament. Moreover, despite its frontrunner status, Moldova has yet to ratify the anti-discrimination Treaty - Protocol 12 to the ECHR, as well as the European Charter on Regional or Minority Languages.

A new Council for the promotion of women's rights was founded in Armenia and in Georgia and in Ukraine a number of equality mechanisms were leveraged into national Ombudsman's Offices. Though, these initiatives suggest progress in line with international and European standards, it was reported that recommendations issued by these institutions are in fact non-binding. In terms of legal cases, courts ruled on cases of discrimination in Ukraine, Georgia and Moldova. There have not been court decisions

on discrimination in the remaining three EaP countries, according to reporting.

The Association Trio have **framework laws on protections against discrimination**. Armenia has draft laws on national minorities and an equality law has been in the making since being proposed by the Ministry of Justice in 2019, but has yet to be adopted. CSOs involved in consultations on these drafts found that many useful recommendations to ensure proper protections for victims of discrimination were not given full consideration. No significant progress was made in advancing anti-discrimination legislation or practice in Belarus or Azerbaijan.

The situation in the EaP region with regards to the **Istanbul Convention** reflects a general legislative and normative dis-alignment between the EU and the majority of EaP states on the issue of gender-based violence (GBV) and arguably equality and women's rights more broadly.<sup>66</sup> Georgia was the only EaP state where the Istanbul Convention was already in force. In October, after the Index research cycle was completed, the Moldovan Parliament ratified the Convention, which then came into force on 20th October 2021.<sup>67</sup>

Ukraine remains the only member of the Associated Trio yet to ratify the Convention, despite having signed it back in 2011. Ratifying the Convention has become a highly politicised and divisive issue in Ukraine. Whilst some stakeholders call for ratification, in recognition of its practical and symbolic importance to tackling GBV and equality, others regard it as an erosion of traditional family values and a

<sup>65</sup> The Council's website <http://egalitate.md/en/> Accessed 12 November 2021.

<sup>66</sup> EaP Civil Society Forum (2019) Prevention, Protection and Prosecution of the Gender-based Violence in EaP Countries [https://eap-csf.eu/wp-content/uploads/Report-\\_EN\\_2019.pdf](https://eap-csf.eu/wp-content/uploads/Report-_EN_2019.pdf) Accessed 5 November 2021.

<sup>67</sup> Evropeiskaya Pravda (2021) *Moldova ratifies Istanbul Convention* [www.eurointegration.com.ua/rus/news/2021/10/15/7129040/](http://www.eurointegration.com.ua/rus/news/2021/10/15/7129040/) Accessed 3 November 2021.

harbinger of ‘gender ideology’ and its ‘dangerous’ liberal pro-gay and pro-feminist agenda.<sup>68</sup> Meanwhile, after the Armenian government declared its intention to proceed to ratification (after signing in 2018), disagreement between supporters and opponents has become more intense and runs along similar traditional versus progressive lines as in Ukraine.<sup>69</sup>

Deficiencies with regards to representation and the effectiveness of **positive and affirmative action** persist across the region.

The proportion of women with seats in EaP Parliaments remains low. According to the OECD, Belarus is the best performer with 40%. However, the dominant role of the President effectively diminishes Parliament’s power. In second place comes Moldova with 25%, followed by Armenia and Ukraine, with 23% and 20% respectively. Next comes Azerbaijan with 15% and then Georgia with 14%.<sup>70</sup>

Gender inequalities also exist in EaP judicial sectors. According to the Council of Europe’s evaluation from 2020 (based on 2018 data), although female representation has been on the rise, it remains a slow and patchy process and across-the-board gender parity is elusive. Trends in EaP states are not markedly different to those in the EU. The Council of Europe noted that women constitute less than 40% of all judges

in Azerbaijan and Armenia and in Moldova, Ukraine, Azerbaijan and Armenia prosecutors are less likely to be female. The persistence of career ‘glass ceilings’ also means that the higher up the judicial system you go, in terms of seniority and responsibility, the fewer women are to be found. For example, fewer women are likely to be court presidents or heads of prosecution services.<sup>71</sup>

When it comes to discrimination on grounds of **sexual orientation and gender identity** (SOGI), Georgia, Moldova and Armenia appear to have legislation in place, at the time of writing. However, CSOs have pointed out that with regards to Armenia, such laws require greater specification and subsequent enforcement measures improved.<sup>72</sup>

**Infrastructures for accessibility specifically for people with disabilities** remained inefficient across the region. In Georgia, in the context of an Ombudsman report on discrimination, the Public Defender posited that the use of social facilities, municipal transport and road infrastructure remains a problem for persons with disabilities, and pointed out that most private and public buildings remain inaccessible.<sup>73</sup> This situation, the Public Defender claimed, had gotten worse under the COVID-19 pandemic.

<sup>68</sup> Elise Ketelaars (2021) *When ‘European values’ do not count: Anti-gender ideology and the failure to comprehensively address GBV in Ukraine*, 26 September 2019, <https://blogs.lse.ac.uk/gender/2018/09/26/when-european-values-do-not-count-anti-gender-ideology-and-the-failure-to-comprehensively-address-gbv-in-ukraine/> Accessed 20 October 2021.

<sup>69</sup> Armenian Weekly (2021) *The Istanbul Convention: A Peril or Prospect for Armenia?* 31 January 2020, <https://armenianweekly.com/2020/01/31/the-istanbul-convention-a-peril-or-prospect-for-armenia/> Accessed 1 November 2021.

<sup>70</sup> OECD (2021) *Gender Gaps in Eurasia: The daunting effects of COVID-19*, <https://euneighbourseast.eu/news-and-stories/publications/gender-gaps-in-eurasia-the-daunting-effects-of-covid-19/> Accessed 8 November 2021.

<sup>71</sup> Council of Europe (2020) *European judicial systems: CEPEJ Evaluation Report*, September 2020, <https://rm.coe.int/evaluation-report-part-1-english/16809fc058> Accessed 5 November 2021.

<sup>72</sup> ILGA Europe (2021) *Annual Review of the Human Rights Situation of Lesbian, Gay, Bisexual, Trans and Intersex People in Armenia covering the period of January to December 2020* <https://www.ilga-europe.org/sites/default/files/2021/armenia.pdf> Accessed 6 November 2021.

<sup>73</sup> *Special Report of the Public Defender of Georgia On Combating and Preventing Discrimination and the State of Equality (2021)* [www.ombudsman.ge/res/docs/2021051313265374968.pdf](http://www.ombudsman.ge/res/docs/2021051313265374968.pdf) Accessed 7 November 2021.



## RECOMMENDATIONS

### **To civil society:**

- Continue to work towards the ratification of the Istanbul Convention, alongside raising public awareness of the Convention and its aims and objectives; dispel myths regarding ‘gender ideology’.
- Continue to raise awareness of ‘discrimination’ in all of its forms and of the importance and value of having national anti-discrimination policies.

### **To public authorities:**

- Work towards the creation of anti-discrimination councils with independent budgets and procedural remits free of parliamentary and political control.
- Complete the process of ratifying the Istanbul Convention, work with CSOs and international partners to prepare state authorities and law enforcement agencies.
- Adopt European and international best practice with regards to affirmative action in public life.

### **To the EU:**

- Monitor EaP states implementation of the Istanbul Convention and share best practice in dispelling myths about gender ideology. Work with CSOs and authorities, where needed, on the development NAPs for domestic violence/ gender-based violence.
- Tie EU support to progress in EaP states’ anti-discrimination policies, in terms of implementation and enforcement.
- Support EaP CSOs in their role as watchdogs over anti-discrimination policies.
- Encourage authorities to put in place independent anti-discrimination Councils.

## THE FIGHT AGAINST CORRUPTION

THE FIGHT AGAINST CORRUPTION	
RANK	2020/21
ARMENIA	0.88
GEORGIA	0.79
MOLDOVA	0.65
AZERBAIJAN	0.52
UKRAINE	0.51
BELARUS	0.49

All EaP states, aside from Armenia, saw some significant backsliding in this sphere. Armenia's score appreciated from 2017, which put it into first place. Though Georgia lost some points it was still able to maintain its number two position. Moldova's backsliding was considerable and saw the country drop from first position in 2017 to third on the current scorecard. Ukraine's score was also characterised by significant backsliding, pulling it down to fifth place, behind Azerbaijan who came fourth. As in 2017, Belarus took the bottom place.

Lengthy lockdowns in EaP states slowed down the implementation of anti-corruption policies and strategies, as courts and public institutions closed and government and donor's resources switched to supporting public health. Even without the pandemic and its fallout, the fight against corruption is a stubborn and challenging area to reform, and one that it is prone to backsliding across the entire region. Further compounding the problem are apparent inconsistencies within some national anti-corruption institutional frameworks, which result from unclear or overlapping mandates amongst the various bodies and authorities charged with tackling corruption. In addition, anti-corruption bodies are grappling with new challenges, including cryptocurrencies, which, at the time of writing, remain unregulated in EaP countries. Cryptocurrencies open up new possibilities for the concealment of wealth from state control and anti-corruption bodies.

Notwithstanding Armenia's top score, gaps in the state's anti-corruption efforts exist, including a reported lack of professional personnel in the Corruption Prevention Commission. It was also ascertained that the government's attempts at asset recovery and the confiscation of property of illegal origin had fallen below the public's expectations.<sup>74</sup> Moreover, the Anti-corruption Policy Council, which was a platform set up to involve CSOs, met only once during the reporting period, as opposed to the scheduled six. The launch of a specialised law enforcement body – the Anti-corruption Committee was also delayed and is planned for autumn 2021.

In relation to the incidence of corruption and capacities to criminalise and prosecute, the main concern in all EaP countries was high-level or grand corruption. Investigative journalists in all EaP countries uncovered multiple corrupt schemes, infringements of public procurement legislation, decisions made in spite of obvious conflicts of interest, as well as immense amounts of unexplained and undeclared wealth amongst elites. In many cases, criminal investigations were selectively started and tended to avoid serving elites or were ignored by prosecution bodies, due to close relations between the alleged law-breakers and politicians. For example, several high-ranking members of the current and former Government of Azerbaijan were arrested on corruption charges, abuses of power and illegal business activities.<sup>75</sup> However, doubts have been raised as to whether the arrests were really to do with fighting corruption, or rather about confiscating the assets of political rivals and enhancing the President's power.<sup>76</sup> The credibility of the Head of State's pledge to fight corruption is also jaded by the fact that he continues to refuse to disclose his own income and property.

All countries, except Azerbaijan, legally prohibit the taking of decisions in circumstances of **conflicts of interest** and all, except Azerbaijan and Belarus, have bodies with oversight functions in this regard. However, across all EaP states, apart from Moldova, sanctions for breaking the law are not routinely applied.

<sup>74</sup> UNCA Civil Society Coalition (2021) *Better Monitoring and a more robust asset recovery framework needed to advance anti-corruption measures*, 16 March 2021, <https://uncaccoalition.org/new-civil-society-report-on-armenia-better-monitoring-and-a-more-robust-asset-recovery-framework-needed-to-advance-anti-corruption-efforts/> Accessed 11 November 2021.

<sup>75</sup> This included the Deputy Minister of Culture, the head of the State Service for the Protection, Development and Restoration of Cultural Heritage under the Ministry of Culture, heads of Departments in the Ministry of Foreign Affairs, the Ambassadors of Azerbaijan in Serbia, Bosnia and Herzegovina and Montenegro and the former Minister of Labour and Social Protection of the Population.

<sup>76</sup> Economist Intelligence Unit (2020) *Azerbaijan*, 17 September 2020, <https://country.eiu.com/article.aspx?articleid=2000165383&Country=Azerbaijan&topic=Politics&subtopic=Forecast&subsubtopic=Political+stability> Accessed 2 November 2021.

All EaP countries have legal provisions to order the **confiscation of assets in corruption cases**, however, evidence suggests that such procedures are politicised and selectively used across the region. Consequently, all EaP states scored poorly on incidence of corruption and capacities to criminalise and prosecute. All countries, except Azerbaijan, have legislation requiring a **declaration of assets of politicians and public officials** to be submitted upon entering office, annually whilst in office, upon leaving office and at least one year later after the termination of employment. All, except Azerbaijan and Belarus, have dedicated bodies to deal with the verification and control of declarations of assets and interests.

In all EaP states, except for Azerbaijan, measures are in place to **detect conflicts of interests and illicit enrichment**, which include declarations of incomes and moveable and immovable assets in the country, as well as abroad. However, reality suggests that in the majority of EaP countries, the tracing of overseas assets is problematic and is not done sufficiently systematically. Though, Moldova stands out in the region as having detailed legislation for tackling the ‘storing’ of assets via **third persons** (whether at home or abroad), none of the EaP countries appear to have notable positive experience of verifying the authenticity of so-called ‘donations from relatives abroad’, which can be an efficient way of hiding wealth. In general, reporting confirmed that the confiscation of assets with illegal provenience (unexplained wealth) is an underdeveloped norm and procedure in all EaP countries.

With regards to cooperation with international anti-corruption bodies, Ukraine claims to have established cooperation with foreign state institutions to track the overseas assets of corrupt elites. However, since this is linked to the investigations of the Yanukovich presidency, it does not necessarily represent a fresh and systemic exchange of information, devoid of political interests. Meanwhile, in Moldova, problems associated with tracking assets abroad are exacerbated by the fact that the National Integrity Authority does not have the status of a law enforcement institution, and therefore its remit does not fall within the framework of international agreements.

With regards to **declarations of incomes** and interests, Armenia, Georgia, Moldova and Ukraine appear to perform quite well by virtue of making records publicly available online. Having said this, deficiencies do persist since records are not always fully digitised and ‘searchable’, which makes the job of identifying potential law-breakers difficult and time consuming. The case of Georgia is illustrative in this respect since it shows that even when a system of asset declarations is in place, wider institutional capacities needed to check the accuracy of declarations, investigate suspected criminal violations and then enforce the law, can be missing, weak or heavily politicised.

Weak political will and a lack of coordinated efforts were apparent in the Associated Trio with regards to bolstering national anti-corruption efforts. For example, despite the country’s profile as a previous champion of anti-corruption, no single, fully independent and therefore effective anti-corruption prosecution body exists in Georgia, despite years of international recommendations and pressures from CSOs. Meanwhile, in Ukraine, anti-corruption bodies such as the National Anti-Corruption Bureau of Ukraine (NABU) and the Specialised Anti-Corruption Prosecutor’s Office (SAPO) became discredited and limitations were placed on the powers of the National Agency for Corruption Prevention (NACP) via a decision of the Constitutional Court.<sup>77</sup> Though headway was made in restating Ukraine’s anti-corruption infrastructure, challenges regarding the politicisation of anti-corruption bodies continue. For example, at the time of writing, no comprehensive reforms aimed at reducing corruption appear to be in place, which was also evidenced in the lack of effort from the side of the government to de-politicise the post of General Prosecutor and to give it ‘teeth’.<sup>78</sup> Meanwhile, Ukraine’s Security Services and State Bureau of Investigations investigated cases residing under NABU’s jurisdiction, which raises the possibility that authorities may declare NABU obsolete.<sup>79</sup>

Though things might be on the cusp of a transformation in Moldova, it is worth recalling that anti-corruption efforts in the country were hamstrung for decades due to state capture and that change will not appear overnight.

<sup>77</sup> Euractiv (2020) *Ukraine’s top court deals another blow to anti-corruption bureau*, 17 September 2020 <https://www.euractiv.com/section/europe-s-east/news/ukraine-top-court-inflicts-another-blow-to-anti-corruption-bureau/> Accessed 4 November 2021.

<sup>78</sup> The Wilson Center (2020) *Why Ukraine’s Public Prosecutor’s Office Remains Toothless*, 22 October 2020, <https://www.wilsoncenter.org/blog-post/why-ukraines-public-prosecutors-office-remains-toothless> Accessed 8 November 2021.

<sup>79</sup> Transparency International (2021) *Increasing SBU involvement in corruption investigations: draft law analysis*, 1 February 2021, <https://ti-ukraine.org/en/news/increasing-sbu-involvement-in-anti-corruption-investigations-draft-law-analysis/> Accessed 10 November 2021.



Previous governments achieved little in terms of fighting the root-causes of corruption. Promises to put behind bars those who captured the state, engaged in multi-million dollar money laundering, sponsored drug trafficking and defrauded the country largely fell flat. The implementation of the National Integrity and Anti-corruption Strategy slowed down, criminal cases against offenders of corruption stagnated and individuals convicted for serious crimes were released. Following the election of Maia Sandu in 2020 as president and the parliamentary elections in July 2021, a new pro-European anti-corruption constellation emerged in Moldova, which signals the possibility of renewed political will to fight corruption.<sup>80</sup>

All EaP countries have laws or legal provisions to protect **whistle-blowers**, but only in the cases of Moldova and Ukraine does the law provide for post-retaliation remedies, including compensation and reinstatement. Anti-corruption bodies do not accept reports submitted by anonymous whistle-blowers in the majority of EaP countries. Moreover, public trust in whistle-blower protection systems tends to be low and as a result citizens do not routinely cooperate with anti-corruption bodies.

## RECOMMENDATIONS

- Attention should be paid to ensuring the verifiable independence, functional capacity and efficiency of anti-corruption bodies in EaP states, rather than inflating and creating new institutions with overlapping and potentially contradictory roles.
- Methods of identifying and analysing conflicts of interests and declarations of incomes and assets, including those overseas, need to be strengthened and updated to reflect new realities.
- Declarations of assets and interests need to be available in fully digitalised form to make them searchable.
- Legal frameworks on cryptocurrencies in line with emerging international best practice need to be adopted in EaP countries.
- Mechanisms for the confiscation of assets in cases of illicit enrichment need to be enforced and routinely applied, as a means to override political exceptions.
- International collaboration between EaP bodies in charge of the verification of income and wealth and fiscal authorities in EU states requires consolidating to help verify the authenticity of so-called ‘donations from relatives abroad’.

<sup>80</sup> Maia Sandu *Inauguration Speech of the President of the Republic of Moldova* (24 December 2020) [www.prezident.md/eng/comunicate-de-presa/discursul-inaugural-al-presedintelui-republicii-moldova-maia-sandu-92799](http://www.prezident.md/eng/comunicate-de-presa/discursul-inaugural-al-presedintelui-republicii-moldova-maia-sandu-92799) Accessed 7 November 2021.

## PUBLIC ADMINISTRATION

PUBLIC ADMINISTRATION	
RANK	2020/21
GEORGIA	0.72
UKRAINE	0.72
MOLDOVA	0.68
ARMENIA	0.59
AZERBAIJAN	0.52
BELARUS	0.52

**The 2021 Index shows a significant gap between the Associated Trio and the other EaP states in the sphere. All EaP countries have progressed in the area of public administration since the 2017 Index, with Georgia's score appreciating the most sharply. Ukraine and Georgia are the joint frontrunners, with Moldova closely following. Armenia takes fourth place, whilst Azerbaijan and Belarus figure at the bottom of the scorecard.**

The 2021 Index shows a significant gap between the Associated Trio and the other EaP states in the sphere. All EaP countries have progressed in the area of public administration since the 2017 Index, with Georgia's score appreciating the most sharply. Ukraine and Georgia are the joint frontrunners, with Moldova closely following. Armenia takes fourth place, whilst Azerbaijan and Belarus figure at the bottom of the scorecard.

The COVID-19 pandemic and subsequent government actions to combat the spread of the virus and manage public health impacted on the efficiency and effectiveness of public administration and delivery of services across the entire EaP region. This included the extent to which consultations were carried out by governments with the public and CSOs. In addition, local authorities were often on the frontline of managing public services during the pandemic.<sup>81</sup>

Discrepancies in **civil society's involvement in public consultation processes** persist across the region. Furthermore, palpable gaps exist between legislation and implementation. For example, in Georgia, whilst CSOs and international organisations are informed about which amendments to draft legislative acts are being tabled as a result of consultations, reality suggests that this is not consistently applied. In a similar vein, public consultations in Ukraine have tended to take place at the discretion of the Government. This is noteworthy, given that public consultations are legally required if a draft law deals with human rights issues. In Azerbaijan, authorities are supposed to issue green papers or ex-ante policy options for public deliberation before work on draft laws commences, however, it was reported that proposals and recommendations from CSOs,

citizens and experts are not seriously considered by law makers.

The COVID-19 pandemic brought limitations to public consultations. For example, in Moldova, the minimum time allocated for public consultations was, on occasion, not fully respected, especially in sensitive cases. Moreover, public consultations were often only organised when urgent demands or pressures came from civil society. Meanwhile, in Georgia, situations reportedly arose where the government rushed a draft bill through a first hearing of Parliament without giving CSOs or the media access to the text of draft legislation.

The principle of **local self-government** is recognised in the Constitutions and / or relevant domestic legislation of all EaP states.<sup>82</sup> All EaP states also have legislative frameworks that allow for the direct election of members of local councils or assemblies. However, in the case of Belarus, this is on paper only, since mirroring the situation at the national level, local elections are not free and fair.

Whilst the Associated Trio were the best performers in the sphere of **local government**, wide-ranging deficiencies, including weaknesses with regards to **consultations with local authorities** were reported. In Georgia, the challenge lies with the fact that both central and local governments are run by one party, thus there is currently no local government opposition to decisions made at the centre. The only local government that could claim independence is the city of Tbilisi, and even in this case, given one-party rule, all matters appeared to be settled prior to the announcement of any major policy initiative. Meanwhile, in Moldova, there is no authority responsible for enforcing and

<sup>81</sup> NALAS - Platforma (2021) *Decentralisation and Local Public Administration Reform in Georgia, Moldova and Ukraine* <https://platforma-dev.eu/wp-content/uploads/2021/10/Decentralisation-Reform-in-EaP-Preparing-for-the-Future.pdf> Accessed 2 November 2021

<sup>82</sup> Nina Chala, (2021) Eastern Partnership Civil Society Forum COVID-19 Policy Paper: *Decentralisation and Local Self-Government in Eastern Partnership Countries* <https://eap-csf.eu/wp-content/uploads/Decentralisation-and-Local-Self-government-in-Eastern-Partnership-Countries.pdf> Accessed 10 November 2021.

monitoring the provision of laws regarding consultations with local authorities, which contributes to a weakening of the role of local authorities. Freedom House recorded multiple deficiencies in relations between central and local authorities and that decisions regarding the reorganisation of public administration were not sufficiently consulted with local authorities.<sup>83</sup> In mid-2021 a new Strategic Plan was published by the Congress of Local Authorities of Moldova (CALM) with the support of the Congress of Local and Regional Authorities of the Council of Europe. The strategy envisages opportunities for local authorities to play a more significant role in the governance structures of Moldova.<sup>84</sup>

In Ukraine, the situation seems to be more in line with international best practice in both legislative and practical terms, which reflects the country's relative success at decentralisation. The Rules of Procedure of the Cabinet of Ministers prescribes obligatory consultations with local authorities for all draft acts that contain issues of importance and concern for the local level. In these cases, representatives of local government bodies or associations take part in meetings of the Cabinet of Ministers.

The Associated Trio were the best performers in terms of **impartiality and degrees of professionalisation within the civil service**. The Associated Trio, as well as Azerbaijan and Armenia, make legal and normative distinctions between career civil servants and political appointees, though legislation is not always watertight or evenly applied, which leaves space for political and partisan interference. For example, despite the provisions of the Civil Service Law, the political neutrality of some parts of the Georgian civil service is purportedly not assured. It was also ascertained that some civil servants were 'encouraged' to resign to make positions available for 'loyal people' in the wake of Moldova's national elections, though the final outcome of this was not reported. In Belarus there is little to distinguish political appointees from career servants.

All EaP countries have requirements for the disclosure of conflicts of interest on the part of civil servants. However, instances persist where requirements are overlooked or ineffectively enforced. In Moldova, where the National

Integrity Authority is in charge of verifying potential conflicts of interest, there were only a few cases where apparent conflicts were addressed. In Georgia, a similar situation was identified, with reports of nepotism and abuses of position, but with a low level of effective follow-up from law enforcement bodies. In 2020 in Ukraine only 31 requirements were made regarding violations of the requirements of legislation on ethical conduct, prevention and settlement of conflicts of interest by the National Agency on Corruption Prevention.

In terms of **employment and remuneration** levels of pay for civil servants remain challenging in all EaP states. In Armenia, the level of pay is one of the lowest, which makes the sector less attractive for skilled candidates. In Azerbaijan, after the double devaluation of the national currency in 2015, salaries for civil servants have depreciated. Civil service pay in Georgia, when salary additions and bonuses are included, is above the national average income, but is still low in relation to the private sector. It was recorded that a new law in relation to standardising civil service remuneration is in the making in Georgia.<sup>85</sup>

In Moldova, pay is not sufficiently competitive with the private sector or jobs with international organisations. Aside from salary-related difficulties, **recruitment, promotion and disciplinary procedures** within the civil service remains weak and prone to corruption to varying degrees across the region. Nepotism, favouritism and bribery are still an issue in selecting, appointing and promoting senior civil servants in Azerbaijan and Belarus and there remains substantial scope for discretion in the appointment of senior civil servants elsewhere too. In Georgia, despite significant new legislative changes, the selection, appointment and promotion of senior civil servants is still not fully based on principles of professionalism and political neutrality. In Moldova, recruitment practices for several senior civil servants' positions were mostly based on political criteria, despite a formal recruitment contest being held.

In terms of the **management of public service quality**, Ukraine and Azerbaijan turned out to be the best performers. But in general, the implementation of the results of surveys

<sup>83</sup> Freedom House (2021) *Nations in Transit – Moldova* [https://freedomhouse.org/country/moldova/nations-transit/2021#footnote12\\_9gjo69](https://freedomhouse.org/country/moldova/nations-transit/2021#footnote12_9gjo69) Accessed 10 November 2021.

<sup>84</sup> CALM (2021) *Strategic Plan 2021-2027* <https://www.calm.md/en/about-us/calm-strategic-plan/> Accessed 9 November 2021.

<sup>85</sup> Transparency International (2021) *Draft Law prepared by the Civil Service Bureau - Changes to the Rule of Labor Remuneration in Public Institutions* <https://www.transparency.ge/sites/default/files/labor-remuneration.pdf> Accessed 8 November 2021.

monitoring citizens' satisfaction remains weak across the EaP. Armenia currently does not have such practices and in Georgia, there are no regular, representative surveys of citizen's satisfaction that are publicly available, moreover it was the country's development partners that carried them out in the past. In Belarus, the Information and Analytical Centre under the Presidential Administration of the Republic of Belarus organises yearly monitoring in the form

of the 'Opinion of the population on the state of the de-bureaucratisation work'. Moldova's E-Government Agency conducts surveys, however, they are not conducted on a regular basis and also require support from development partners, such as the World Bank. Similarly, in Ukraine, there is a lack of systematic practices amongst executive authorities to record and monitor the quality of public services from the perspective of citizens.

## UKRAINE'S DECENTRALISATION REFORMS – A POSSIBLE PATHWAY FOR MOLDOVA TO FOLLOW?

The creation of functional relations between central, regional and local governments is an integral part of installing good multi-level governance, reinforcing democracy, delivering quality public policies and building trust between state institutions and citizens. Decentralisation is not an end-goal, but rather part of the democratic process in the context of the organisation of a territory. It is also part and parcel of achieving closer approximation with the EU. The nature and extent to which power is devolved, and the degrees to which local authorities are involved in reforms and policies that either directly or indirectly affect them varies substantially across the region.

Ukraine's decentralisation reform is the one of the most advanced and effective in the EaP region,<sup>86</sup> and demonstrates how decentralisation is not just about institutional restructuring. Rather it is also about shaping core public policies, including health, training and education.<sup>87</sup> Successful decentralisation is particularly important in the case of the Associated Trio as it affects the implementation of their AAs and DCFTAs. Furthermore, effective multi-level governance is also vital to post-pandemic recovery and resilience building.

The process began in earnest in Ukraine April 2014, when the Concept of Reforming Local Self-Government and the Territorial Structure of Power and accompanying Action Plan were introduced. This was the beginning of a comprehensive legislative review process, starting from the revision of the Constitution and subsequent further amendments and adoption of new laws and secondary regulations.

In the first instance, amendments to the Constitution addressed investing more political powers in *Oblast* (regional) and *Rayon* (district) councils and also implied the reorganisation of local state administrations into effective controlling and supervisory bodies. This also provided for a clearer definition of the notion of 'community' as a political subdivision. Crucially, such changes were widely discussed and consulted amongst relevant stakeholders, as well as commended by the Venice Commission.

What bolstered the process was that even before the reforms were finalised, monitoring procedures began. After the new administrative and territorial arrangement formation was completed and in the context of the 2021 state budget, direct inter-budget relations were established with 1438 *hromadas*. An independent consortium carries out the monitoring of *hromadas* budget performance to establish consistencies with similar sized *hromadas*, with a view to increasing the efficiency of spending on a per resident basis.

<sup>86</sup> Council of Europe (2021) *Decentralisation in Ukraine: A Successful Reform*, 18 July 2021, <https://www.coe.int/en/web/good-governance/-/decentralisation-in-ukraine-a-successful-reform> Accessed 10 November 2021.

<sup>87</sup> World Health Organisation (2021) *Aligning health and decentralisation reform in Ukraine* <https://www.euro.who.int/en/countries/ukraine/publications/aligning-health-and-decentralization-reform-in-ukraine-2021>; Government of Ukraine Decentralisation <https://decentralization.gov.ua/en/education> Accessed 7 November 2021.

Ukraine's reforms are, by definition, ongoing and remain underpinned by donor and other types of external support. Krakow University of Economics, for example, contributed to building up study and training programmes for local administrators and regional centres of excellence (RECs) to expand expertise amongst local authorities and heighten professional standards and knowledge.

Though significant differences exist between Ukraine and Moldova's internal territorial make-up, Ukraine's experience could provide lessons for Moldovan authorities and CSOs as the country pursues its own reforms and attempts to move away from structures inherited from the past, which left a considerable amount of territorial fragmentation.<sup>88</sup>

Five normative issues stand out in this regard. (i) Start with a wide-lensed forward-looking communication campaign, which stresses the real potential for socio-economic development across the entire country (ii) Verify that citizens and communities have a clear understanding of the core objectives and visions implied in reforms (iii) Engage with local 'multipliers', namely local individuals, offices and bodies, including Mayors, cultural workers, healthcare workers and educators. Ensure that these stakeholders have in-depth understandings of reforms, which will help embed decentralisation projects and heighten chances of sustainability (iv) Pay close attention to the lessons learnt by Ukrainian counterparts and feed these into a decentralisation methodology for Moldova, where appropriate (v) Lesson-learning also needs to continue at the CSO-level, especially local government associations, meaning the AUC (Association of Ukrainian Cities) and CALM.

## RECOMMENDATIONS

### To civil society:

- Conduct research and raise awareness about progress, as well as outstanding challenges related to public administration reforms. Share regional knowledge on this issue.
- Continue to develop monitoring and evaluation frameworks, use open data, create interactive tools such as scorecards or dashboards, and engage in innovative initiatives that inform the public about progress around priority reforms of their governments on public administration at local and national levels.
- Reinforce the capacity of CSOs to be conveners of multi-stakeholder efforts to ensure that improvements to public administration practices are sustainable, resilient, as well as pandemic-proof.

### To public authorities:

- Ensure equal representation of women in public services; render recruitment and retention procedures gender sensitive, using EU best practice.
- Define rigorous standards and principles for consultations with local authorities and in so doing acknowledge the wide range of matters that directly and indirectly concern them.
- Revisit legislation related to employment and remuneration in the public sector, addressing issues of staff retention, professionalisation and adapting salary levels to make them competitive in relation to local job markets.
- Establish practical training on public ethics on a permanent basis, using concrete and relevant examples. Raise awareness amongst the public, CSOs and the media as to the quality of public service that citizens should expect.
- Build capacity at the local government level to enable authorities to take loans for local projects, especially in relation to critical infrastructure or other local needs.
- Draw from international best practice to create and implement monitoring tools to gauge citizens' satisfaction with public services.

<sup>88</sup> NALAS - Platforma (2021) *Decentralisation and Local Public Administration Reform in Georgia, Moldova and Ukraine* <https://platforma-dev.eu/wp-content/uploads/2021/10/Decentralisation-Reform-in-EaP-Preparing-for-the-Future.pdf> Accessed 2 November 2021.

**To the EU:**

- Support EaP states to define conceptual frameworks and mechanisms for Regulatory impact assessment (RIA), based on EU best practice.
- Support EaP members in defining unified standards for public consultations processes, especially between central government and local authorities.
- Render EU for Integrity Programme more visible, and consult future activities and priorities with a broader group of stakeholders from across central government, local government and CSOs.

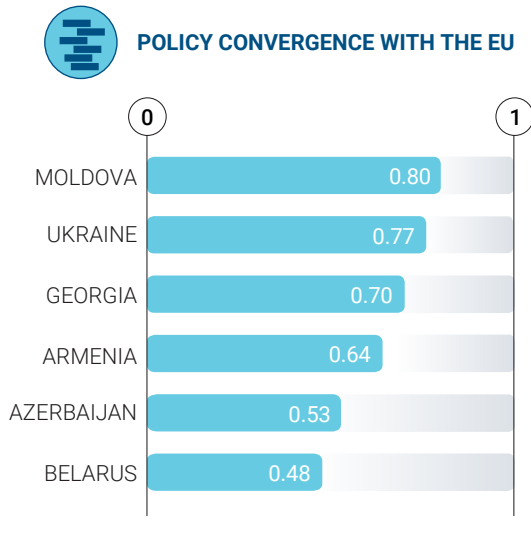


# POLICY CONVERGENCE WITH THE EU

Approximation in relation to policy convergence is about identifying the extent to which EaP states have converged with, moved closer to or perhaps shifted away from EU standards and norms in key policy fields and sectors. The chart denotes aggregate scores for each country based on research results gathered for the 2021 Index.

The aspects contributing to the scores on policy convergence are:

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



The leading EaP state is Moldova, which is closely followed by Ukraine and then Georgia. The Associated Trio saw their scores appreciate since 2017. In fourth place sits Armenia, followed by Azerbaijan and Belarus. The overall scores for these three countries dropped, nevertheless, Armenia still found its way into the top three in energy and environment and climate policy.

## MARKET ECONOMY AND DCFTA ALIGNMENT

MARKET ECONOMY AND DCFTA ALIGNMENT	
RANK	2020/21
UKRAINE	0.78
GEORGIA	0.77
MOLDOVA	0.66
ARMENIA	0.65
AZERBAIJAN	0.46
BELARUS	0.45

**The Associated Trio are positioned at the top of the scorecard with regards to market economy and DCFTA alignment. Ukraine saw a striking rise in its score and Moldova also gained a number of points since 2017. Despite losing some points, Georgia maintained its position as number two and is just behind Ukraine. Though Armenia saw its score depreciate, it remains very close to Moldova. Azerbaijan experienced a considerable fall in its score, which took it from third place in 2017 to fifth place in 2021, it is now only slightly above Belarus on the scorecard.**

Since the 2017 Index was published there has been a number of developments in the area of market economy reform and DCFTA alignment. The EU has had DCFTAs with Moldova and Georgia since 2014 and with Ukraine since 2016.<sup>89</sup> Meanwhile, in 2021 the EU and Armenia began to implement the Comprehensive and Enhanced Partnership Agreement (CEPA). However, the COVID-19 pandemic slowed down economic development in the region and all EaP economies are due to shrink, which will have knock-on effects for market economy reforms and DCFTA implementation.<sup>90</sup> Small and medium enterprises (SMEs / MSMEs<sup>91</sup>) were also hit hard by the pandemic.<sup>92</sup>

Each country has its strengths and weaknesses regarding policy convergence in this sphere. Ukraine is strong in trade convergence, but lags in issues relating to the market economy. Georgia has robust market economy features, but is relatively weak in sectoral cooperation, whilst Moldova leads in this area. Armenia outperforms Georgia in market-related aspects, but is weak in both trade policy convergence and sectoral collaboration.

**Starting a business** has become relatively easier in EaP countries. According to the World Bank's 2020 Doing Business survey Georgia came 2<sup>nd</sup> in the world (out of 190 states), followed by Azerbaijan in 9<sup>th</sup> place,

Armenia in 10<sup>th</sup>, Moldova in 13<sup>th</sup>, Belarus in 30<sup>th</sup>, whilst Ukraine came in at 61<sup>st</sup> place for starting a business. Other market entry and exit indicators, such as the resolution of insolvency, is cumbersome across the region, with only Azerbaijan coming within the top 50 countries. The best performer from the Associated Trio was Georgia in 64<sup>th</sup> place, followed by Moldova in 67<sup>th</sup> place, whilst Ukraine took 146<sup>th</sup> place. In recognition of Ukraine's derisory score, a new Bankruptcy Code was adopted to try to improve the situation. **Contract enforcement** is also reportedly problematic across the EaP region, apart from in Georgia, who was ranked in 12<sup>th</sup> place. Meanwhile, Moldova and Ukraine lagged and took 62<sup>nd</sup> and 63<sup>rd</sup> places respectively.<sup>93</sup>

Belarus received the lowest score in the sphere of **market competition**, whilst Armenia, Ukraine and Georgia emerged as the best performers. Their relatively strong positions reflect the fact that they have in place anti-monopoly institutions and EU-type oversight mechanisms for state aid.

The **protection of property rights** remains a challenge in some EaP countries. According to the IMD World Competitiveness Report, Azerbaijan, Armenia, and Georgia have the highest level of property rights protection in the region, whilst Ukraine and Moldova sit at the other end of the spectrum. Meanwhile, Intellectual Property

<sup>89</sup> For draft (inception report prepared by CEPS) conclusions of DG Trade's evaluation of DCFTAs with Georgia and Moldova see *Ex-post evaluation of the implementation of the Deep and Comprehensive Free Trade Areas between the EU and its Member States and Georgia and Moldova*, 19 April 2021, [https://trade.ec.europa.eu/doclib/docs/2021/may/tradoc\\_159581.pdf](https://trade.ec.europa.eu/doclib/docs/2021/may/tradoc_159581.pdf) Accessed 10 November 2021.

<sup>90</sup> OECD (2020) *COVID-19 crisis response in Eastern Partner countries* [https://read.oecd-ilibrary.org/view/?ref=129\\_129637-ttbr2lwvsh&title=COVID-19-Crisis-Response-in-EU-Eastern-Partner-Countries&\\_ga=2.202241041.1454214775.1635725123-1953125695.1635725123](https://read.oecd-ilibrary.org/view/?ref=129_129637-ttbr2lwvsh&title=COVID-19-Crisis-Response-in-EU-Eastern-Partner-Countries&_ga=2.202241041.1454214775.1635725123-1953125695.1635725123) Accessed 28 October 2021.

<sup>91</sup> MSMEs denote Micro, Small and Medium enterprises, which is an appropriate term given that micro-sized enterprises (up to nine employees) are popular across the EaP.

<sup>92</sup> Eastern Partnership Civil Society Forum (2020) *Lessening the economic impact of the COVID-19 crisis* <https://eap-csf.eu/wp-content/uploads/COVID19-Briefing-Paper-Lessening-economic-impact-of-covid19-crisis.pdf> Accessed 11 October 2021.

<sup>93</sup> World Bank (2021) *Doing Business 2020* <https://www.doingbusiness.org/en/doingbusiness> Accessed 10 November 2021.

Protection (IPR) is the strongest in Moldova, Armenia and Georgia. However, the number of IPR registrations remains overall low, which signals some deficiencies in national systems.<sup>94</sup>

Strengthening the **SME sector** and the business environment in the region is a priority objective of the EU, EaP governments, business communities and associations, as well as CSOs.<sup>95</sup> Improving conditions for SMEs has become even more important given that the sector was hit very hard by the pandemic. SMEs form the backbone of EaP economies; they are the most popular type of enterprise and are also a major employer. Ukraine reports the highest share of SMEs, accounting for two-thirds of output and over 80% of employment. In other EaP countries, the role of SMEs is somewhat lower, though still significant. SMEs account for 45% of Georgia's output, while in Armenia, Azerbaijan and Belarus they account for around 25%.<sup>96</sup> All EaP countries, except for Azerbaijan, report a higher share of SMEs in employment than in output, which suggests inefficiencies, underdevelopment and thus a need for better access to finance, technologies, entrepreneurial education and training.

In terms of **trade policy**, EaP countries continue to gradually converge with the EU's regulations. The results of this are seen in an across-the-board rise in the relative importance of the EU as a trade partner for EaP states, including Belarus.

Armenia's trade relations with the EU are set in the framework of CEPA, which entered into force in March 2021. As a member of the Eurasian Economic Union (EAEU),<sup>97</sup> Armenia delegates many trade policy instruments to this body, but nevertheless CEPA envisages EU regulatory approximation in trade in services, energy, public procurement, state-owned enterprises, intellectual property rights protections and other areas of mutual interest. The EU–Azerbaijani Strategic Partnership Agreement remains in the making, thus bilateral relations rest on the existing PCA, which provides a basis for trade, cooperation on digital matters,

taxation, customs, intellectual property rights and public procurement. Azerbaijan's convergence with the EU is truncated by the fact that it is not a member of the World Trade Organisation (WTO). Belarus' trade relations with the EU are also governed by a bilateral PCA.

In the sphere of **technical barriers to trade (TBT)**, Georgia, Moldova, and Ukraine are ahead of the other three EaP countries. The Associated Trio's DCFTAs are designed to facilitate reforms towards EU norms and the market economy, with a strong focus on trade development. The three DCFTAs also envisage membership in European standardisation bodies, thus deeper integration is expected.

The conclusion of an Agreement on Conformity Assessment and Acceptance of industrial products (ACAA) with the EU became a top priority for Ukraine. The pre-assessment expert mission to evaluate Ukraine's preparedness began working in October 2020, and its assessment was delivered in May 2021, which confirmed quite a high level of convergence. Moldova has also moved forward to launch ACAA talks as the country has already transposed most EU legislation.

The situation in the sphere of **sanitary and phytosanitary measures (SPS)** is similar, with the Associated Trio leading the way. Ukraine has the highest score for convergence in this area and has the highest number of products of animal-origin allowed for export to the EU. Ukraine achieved the first mutual recognition of certification systems equivalence (that could be tentatively treated as the ACAA for food products) with the EU. The first agreement covers cereal seeds.

Most EaP states have key elements of **modern customs**, including one-stop-shop, facilitated customs procedures and customs electronic systems. Georgia is the leader in customs and trade facilitation, with transparent, efficient, and non-distorting customs procedures. Meanwhile, Ukraine is the closest to joining the

<sup>94</sup> IMD (2021) *World Competitiveness Ranking 2021* <https://www.imd.org/centers/world-competitiveness-center/rankings/world-competitiveness/> Accessed 10 November 2021

<sup>95</sup> The EU definition of an SME is an enterprise employing less than 250 staff, with an annual turnover of less than or equal to 50 million euros or an annual balance sheet that is less than or equal to 43 million euros. Furthermore, this can be broken down to micro enterprises employing between zero and nine people, small enterprises employing between 10 and 49 workers and medium enterprises that employ between 50 and 249 workers. See European Commission (2020) *User Guide to the SME Definition* <https://ec.europa.eu/docsroom/documents/42921> Accessed 9 November 2021.

<sup>96</sup> OECD et al. (2020) *SME Policy Index: Eastern Partner Countries 2020: Assessing the Implementation of the Small Business Act for Europe*, OECD Publishing, Paris/European Union, Brussels [https://www.oecd-ilibrary.org/sites/8b45614b-en/1/2/2/index.html?itemId=/content/publication/8b45614b-en&\\_csp\\_ =4bd5e5abc5a25e944d4684b9dfbc44d5&itemIGO=oecd&itemContentType=book#section-d1e4583](https://www.oecd-ilibrary.org/sites/8b45614b-en/1/2/2/index.html?itemId=/content/publication/8b45614b-en&_csp_ =4bd5e5abc5a25e944d4684b9dfbc44d5&itemIGO=oecd&itemContentType=book#section-d1e4583) Accessed 1 November 2021.

<sup>97</sup> The Eurasian Economic Union (EAEU) is an international economic union and free trade zone; its five members are Belarus, Kazakhstan, and Russia. Armenia and Kyrgyzstan. <http://www.eaeunion.org/?lang=en#about> Accessed 2 November 2021.

**European Common Transit System**, having launched the New Computerised Transit System (NCTS) with the EU already in 2021. Azerbaijan, Georgia and Moldova are piloting this system.

In convergence in the sphere of **financial services** the Association Trio are the leaders. All EaP countries embedded Basel II–III regulations into their legislation and are working on the incorporation of Basel IV, though implementation is lagging, but nevertheless still progressing. All countries have the IBAN code, though membership in the Single Euro Payment Area (SEPA) is not yet on the agenda. Only Ukraine has reported some early-stage preparations in this area.

Concerning **national financial architectures**, Armenia, Georgia, Moldova and Ukraine report possessing independent regulators in all three key areas, namely, banking, insurance and investments in transferable securities. Meanwhile, Belarus and Azerbaijan do not have independent regulators.

Moldova, followed by Georgia and Ukraine, is leading in the field of cooperation with the EU in **digital services**. Moldova and Ukraine have already developed roadmaps for legal approximation to join the EU Single Digital Market, whilst Armenia, Azerbaijan and Georgia have plans in preparation.

## A LEVEL PLAYING FIELD FOR SMES IN DCFTA STATES

In transition economies SMEs or MSMEs are important drivers of economic growth and prosperity. They can also play a role in building societal resilience, diversifying economies and embedding democratic and liberal norms. The pandemic reinforced the need for a strong MSME sector across the EaP region as a part of national recovery strategies.

The EU has continuously supported SME development since the inception of the EaP and has placed renewed attention to the sector in the context of working with authorities, businesses and CSOs on post-pandemic recovery. The EU's Joint Staff Working Document (JSWD) 'Recovery, resilience and reform: post 2020 Eastern Partnership priorities' envisages support for half a million SMEs as one of the Top Ten Targets. Meanwhile, in the annex to the JSWD 'An Economic and Investment Plan for the Eastern Partnership: Investing in Resilient and Competitive Economies and Societies' all EaP states have flagship initiatives to develop their respective SME sectors with EU support.<sup>98</sup> It is also envisaged that support for female entrepreneurship will be a priority.

Though SMEs are already significant employers in the EaP region, their contributions to GDP remain disproportionately low, which amongst other factors, reflects the sector's inefficiencies and the fact that they are often involved in the production of low-value goods and services.<sup>99</sup> Although it might be easy to start a business, it does not follow that developing and growing an enterprise is without its problems, even if a business is sound. SMEs are also prone to sliding in to the informal (grey) economy during difficult times. Entrepreneurs can find it difficult to get finance to invest in their firms and a challenge to acquire export partners and access new markets. A net-result of this is that SMEs are not necessarily meeting their potential as drivers of economic growth and societal resilience in EaP states. Nor are they contributing to trade internationalisation in the ways envisaged in the DCFTAs.

The EU's support for SMEs in Georgia, Moldova and Ukraine envisages building export capacities, access finance and developing the necessary technical skills, such as IPR capacities, to meet DCFTA requirements. However, getting SMEs ready to engage with and ultimately benefit from DCFTAs needs a wide-angled and comprehensive approach, which focuses on improving local business environments as much as supporting enterprises.

<sup>98</sup> European Commission / High Representative of the Union for Foreign Affairs and Security Policy (2 July 2021) Joint Staff Working Document (JSWD) 'Recovery, resilience and reform: post 2020 Eastern Partnership priorities' [https://ec.europa.eu/commission/presscorner/detail/en/IP\\_21\\_3367](https://ec.europa.eu/commission/presscorner/detail/en/IP_21_3367) Accessed 6 November 2021.

<sup>99</sup> OECD et al. (2020) *SME Policy Index: Eastern Partner Countries 2020: Assessing the Implementation of the Small Business Act for Europe*, OECD Publishing, Paris/European Union, Brussels <https://www.oecd-ilibrary.org/sites/8b45614b-en/1/2/2/index.html?itemId=/content/publication/8b45614b-en&csp=4bd5e5abc5a25e944d4684b9dfbc44d5&itemIGO=oe&itemContentType=book#section-d1e4583> Accessed 1 November 2021.

Whilst in some market economy-related policy convergence criteria, Moldova, Georgia and Ukraine appear to be advancing, they all struggle with the fight against corruption and maintaining the independence of the judiciary – which are the fundamental pillars of a market-oriented and ‘healthy’ business environment. MSMEs tend to be disproportionately affected by distorted and unequal business conditions. In order to develop, MSMEs require a business environment with a ‘level playing field’, composed of transparent rules and regulations, which are evenly enforced by the rule of law upon all enterprises, whether they be big or small, state or privately owned, new or old. Incentives also need to be in place to encourage and incentivise SMEs to operate entirely inside the formal economy and to pay taxes and follow labour codes correctly. The costs and risks associated with operating in the grey economy need to be raised.

Thus, SMEs have the best chance of being sustainable and of contributing to post-pandemic recovery if business environments are also put under the microscope. Supporting the evolution of business environments in the Associated Trio needs to aim at reinforcing the underpinnings of a level playing field, which amongst other things requires constantly improving the efficiency of anti-corruption institutions, maintaining efforts towards improving the independence of the judiciary, strengthening the enforcement of competition law, to guard against cartels and state capture and ensuring that legislators and regulators have the necessary expertise and knowledge at their disposal to legislate and to scrutinise laws and norms relating to commerce and doing business.

## RECOMMENDATIONS

### To civil society:

- Continue to strengthen civil society monitoring and assessments of progress in regulatory approximation with the EU and implementation of new legislation in relevant sectors.
- Contribute to independent Ex-post evaluations of DCFTAs. Increase the visibility and impact of civil society assessments of DCFTAs and regulatory approximation at both national and European levels.

### To public authorities:

- Establish several clear-cut goals for EU market integration and pursue them steadily, in close cooperation with the EU and civil society.
- Hold consultations with civil society as a means to build awareness of DCFTAs and effects of policy convergence.
- Aim for full membership in international and European organisations and EU programmes and initiatives to strengthen economic and trade ties.
- Continue to provide opportunities and support for female entrepreneurship.

### To the EU:

- Support regulatory convergence by facilitating the full membership of EaP countries in international and European organisations and EU programmes and initiatives.
- Offer feasible integration opportunities into EU markets for EaP countries, such as the Energy Community, Digital Single Market, common transit, mutual recognition of the authorised economic operators, SEPA.
- Continue to support SME development, including support for micro enterprises, especially in the form of small grants. Reinforce measures to encourage female entrepreneurship and opportunities for vulnerable groups.



## FREEDOM, SECURITY AND JUSTICE

FREEDOM, SECURITY AND JUSTICE	
RANK	2020/21
MOLDOVA	0.95
GEORGIA	0.94
UKRAINE	0.90
ARMENIA	0.73
AZERBAIJAN	0.60
BELARUS	0.50

**The Associated Trio are the best performers in the area of Freedom, Security and Justice, with a considerable gap between them and the other three states. Moldova takes first place, followed closely by Georgia and then Ukraine. Armenia remains in fourth place. Azerbaijan lost a significant number of points, and remains in fifth place, as was the case in 2017. Although Belarus scored higher in 2021 than in 2017, it stays at the bottom of the scorecard.**

Border management remains the weakest issue in the EaP region, which can be partly explained by the effects of conflicts, which fracture the territories of five out of six states. Progress in tackling illegal migration, money laundering and organised crime, including increased cooperation with the EU on these issues has occurred. 2020/21 also saw new migratory pressures and thus challenges arrive at the borders of some EaP states emanating from the Middle East and elsewhere. Belarus saw an outflow of its own citizens in 2020/21 to EU and other EaP states and also used the influx of new irregular migrants as part of a 'hybrid' destabilisation strategy towards nearby EU states.<sup>100</sup>

Over the course of 2020-2021 Armenia showed positive developments, including in the **fight against corruption and organised crime**. Decreases in Ukraine and Georgia's scores, does not necessarily indicate a significant deterioration in conditions and standards as such. These deviations can be explained by the fact that these states continued to take on additional and ever more demanding obligations in the contexts of their Association Agreements.

The Associated Trio remained the leaders in the area of **visa dialogues**, which continued to flourish. Ukraine and the European Commission established a mutual agreement recognising COVID-19 travel certificates (including vaccinations), which helped enable the resumption of visa-free travel and also confirmed the safety of digital instruments and associated data protections on the side of Ukraine. At the time of writing, Armenia had also set up a

mutual agreement on the recognition of digital COVID-19 certificates with the EU and was on the list of 18 third countries participating in the scheme.<sup>101</sup> It was reported that both Moldova and Georgia are in negotiations with the EU on the recognition of COVID-19 certificates.

The Associated Trio advanced in the field of **personal data protection**, yet the very latest changes that reflect EC Regulations 2016/679 remain in the planning phase and are not yet adopted. For example, the Moldovan law that regulates data protection was adopted in 2011 and created the legal framework for the application of Directive 95/46/EC of the European Parliament on the protection of individuals with regards to the processing of personal data and on the free movement of such data. Back in 2018 the Moldovan Parliament elaborated and voted on the first reading of the draft law, which corresponds with the provisions of the EC Regulation 2016/679, but there has been no final voting hitherto. Similar situations existed in Georgia and Ukraine, where necessary amendments are included in the Association Agreement and new legislation was elaborated around 2018-2019, but has still not been adopted.

The **visa liberalisation situation** with Azerbaijan, and Belarus did not change. In April 2021, in the context of the Armenia-EU Visa Facilitation Agreement, parties mentioned the importance of moving toward a visa-free regime, but no further developments were recorded. Meanwhile, pandemic related closures of Schengen consulates inevitably meant

<sup>100</sup> Brian Whitmore (2021) *Belarus dictator weaponizes illegal migrants against EU Atlantic Council* <https://www.atlanticcouncil.org/blogs/belarusalert/belarus-dictator-weaponizes-illegal-migrants-against-eu/> Accessed 3 November 2021.

<sup>101</sup> European Commission (2021) *EU Digital COVID-19 Certificate* [https://ec.europa.eu/info/live-work-travel-eu/coronavirus-response/safe-covid-19-vaccines-europeans/eu-digital-covid-certificate\\_en#recognition-of-covid-certificates-from-third-non-eu-countries](https://ec.europa.eu/info/live-work-travel-eu/coronavirus-response/safe-covid-19-vaccines-europeans/eu-digital-covid-certificate_en#recognition-of-covid-certificates-from-third-non-eu-countries) Accessed 12 November 2021. Subsequent to the reporting period, the European Commission adopted equivalence decisions with Moldova and Georgia on COVID-19 certificates.

<sup>102</sup> EUR-lex (1995) *Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data* <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A31995L0046> Accessed 1 November 2021.



that citizens from states without visa-free regimes were hit the hardest, which inevitably undermined mobility and people-to-people contacts. Meanwhile, at the same time as emergency measures were invoked by authorities in Belarus, some EU consulates were reopened to issue national humanitarian visas to people facing persecution after the 2020 elections.<sup>103</sup>

Regarding **irregular immigration and readmission agreements** Armenia reported improvements in this area, whilst Azerbaijan went in the opposite direction. Belarus remains an outlier in this sphere, and there is a high likelihood that the situation will only get worse, especially regarding immigrants on the Belarus-EU border.<sup>104</sup>

One of the main problems for all countries is the misuse of the visa-free regime. In the case of Moldova there is also the problem of unfounded applications for international protection being submitted by Moldovan nationals to EU Member States, which is reflected in the Fourth Report under the Visa Suspension Mechanism of August 2021. With a view to tackling illegal immigration the Associated Trio conducted negotiations with relevant EU states and in the case of Georgia criminalised the act of facilitating irregular migration. The three countries have also improved cooperation with Interpol, Europol, and FRONTEX.

Waves of Belarusians fled the country in the wake of violence and persecution after the presidential election in August 2020. In October 2020 alone around 3,000 people fled Belarus for Ukraine. The majority of Belarusians are reportedly not applying for asylum status, but rather for national visas, predominantly in Poland and Lithuania. In this way, the migrants are able to work and study, until as and when the situation improves back home. Nevertheless, the number of humanitarian visas for Belarusian citizens issued by both Lithuania and Poland grew during 2020 and 2021, as did the numbers of people applying for asylum in these states. Georgia also became a destination for migrants from Belarus during the crisis.

The migration situation in Belarus has further dimensions, with strong implications for the EU and EaP. Belarus began using migrants as 'hybrid weapons' against EU states and since

Minsk does not implement its Readmission Agreement with the EU, this growing wave of migrants, mainly from the Middle East, has created a humanitarian crisis at Europe's eastern borders. Although it entered into force in July 2020, Belarusian authorities suspended the agreement in the following June as a response to the EU strengthening its sanctions towards the Lukashenka regime.

Apart from Belarus, all countries introduced **integrated border management (IBM)** in their border operations. At the same time, IBM is somewhat compromised because of regional conflicts. Five out of the six countries still do not fully control their borders; moreover, not all borders in the region are fully demarcated. In Moldova, the development of the 2021-2023 Action Plan on IBM took place, but it has yet to be approved. Ukraine's Action Plan for its IBM strategy was adopted, and an interagency working group headed by the Vice Prime Minister on European and Euro-Atlantic Integration held meetings, but no significant milestones were recorded.

The Ukrainian government does not control parts of its eastern border with the Russian Federation, due to the uncontrolled territories of Donetsk and Luhansk and the lack of progress in the Minsk negotiations. Meanwhile, in 2020 and 2021, incidents took place in the Black Sea, where Russia aims to take control of the territorial waters around Crimea, thus limiting Ukraine's control over its maritime borders.<sup>105</sup> Meanwhile, Kiev continued the border demarcation process with Belarus and also with Moldova, but with less success with regards to the latter. Although there are border checkpoints jointly administered by Ukraine and Moldova, mechanisms have not been sufficiently developed, especially on the Transnistrian sector of the Moldovan-Ukrainian state border. Armenia and Azerbaijan both lost points in the sphere of border management, as a result of military confrontation in Nagorno-Karabakh and resultant border changes.

EaP states have ratified the necessary international conventions regarding **organised crime**. However, all states have problems with the implementation of laws and policies to prevent and combat organised crime. Investigations are often not brought to fruition, and criminal liability can be simply sidestepped,

<sup>103</sup> Polish Consulates in Belarus fully reopened <https://www.schengenvisainfo.com/news/polish-consulates-in-belarus-fully-reopened-visa-issuance-procedures-have-been-simplified/> Accessed 7 November 2021.

<sup>104</sup> BBC (11 November 2021) Poland-Belarus crisis: The lives caught in a stalemate <https://www.bbc.com/news/world-europe-59253376> Accessed 11 November 2021.

<sup>105</sup> Gustav Gressal (2021) Waves of ambition: Russia's military build-up in Crimea and the Black Sea, ECFR, 21 September 2021, <https://ecfr.eu/publication/waves-of-ambition-russias-military-build-up-in-crimea-and-the-black-sea/> Accessed 7 November 2021.

especially when national élites are potentially involved. Nevertheless, some advances were made in the region, including Ukraine's adoption of its strategy on combatting organised crime and the law on preventing and combatting money laundering, financing terrorism and the proliferation of weapons of mass destruction. Armenia made the biggest legislative leap in terms of fighting corruption, money laundering and tackling organised crime in the country. An independent Corruption Prevention

Commission was created in 2020 to maintain the registry of public officials' declarations of property, income and other interests. Changes to the law on organised crime were adopted and a law was passed in 2020, which allowed prosecutors to seize property suspected to have been acquired through money laundering. This momentum notwithstanding, the argument still holds that a gap between law and practice in this area tends to persist in EaP states.

## RECOMMENDATIONS

### To civil society:

- Join governmental efforts in terms of information campaigns explaining consequences of the misuse of the visa-liberalisation regime and unfounded applications for asylum.

### To public authorities:

- Moldova should adopt the 2021-2023 Action Plan on IBM to implement the strategy on integrated border management.
- Ukraine, Moldova, Georgia, Armenia's Governments should update legislation regarding personal data protection according to EC Regulations 2016/679.

### To the EU:

- Launch a visa liberalisation dialogue with Armenia.
- Cooperate with Ukraine to accommodate asylum seekers from Belarus (temporary migrants), providing special assistance and temporary living conditions for those fleeing the country due to oppression. Particular focus could be placed on students who left home without enough means to live.
- Cooperate with Ukraine and Georgia on monitoring illegal restrictions in the Black Sea region imposed by the Russian Federation and attempts to limit states' control of their maritime borders.
- Contribute to improving infrastructure and increasing the number of checkpoints at the borders of Ukraine with EU states.

## ENERGY: LEGISLATION CONVERGENCE AND ENERGY POLICY

ENERGY: LEGISLATION CONVERGENCE AND ENERGY POLICY	
RANK	2020/21
MOLDOVA	0.83
UKRAINE	0.74
ARMENIA	0.59
BELARUS	0.58
AZERBAIJAN	0.51
GEORGIA	0.44

**Moldova is the frontrunner in Energy, having made considerable progress since the 2017 Index. Ukraine also gained a significant number of points and comes in second place, followed by Armenia. Next comes Belarus. This is the only Index indicator where Belarus does not reside in one of the bottom two places. Azerbaijan takes fifth place. Despite seeing its score appreciate Georgia remains at the bottom of the scorecard by a considerable margin and a long way behind the other two members of the Associated Trio.**

**Energy sector regulators** are not entirely independent in the region. This is especially the case in Belarus, where tariffs for electricity and heat for industrial consumers and individual suppliers are regulated by the Ministry of Antimonopoly Regulation and Trade (MART), and tariffs for residential customers regulated by the Council of Ministers. The situation has also not significantly evolved in Ukraine. The National Energy and Utilities Regulatory Commission (NEURC) operates as a ‘central executive body’ established by the Council of Ministers, which is viewed by the EU Energy Community Secretariat as a breach of standards. No changes with regards to Azerbaijan since 2017 were ascertained. Meanwhile, **regulatory independence** showed some improvements in the case of Moldova. Despite its low score, the situation also improved in Georgia, with the Georgian Energy Sector Regulator (GNERC) proving to be competent and independent.

The Associated Trio have progressed with regards to the liberalisation of their electricity and gas markets, with Ukraine leading the group. In January 2020 the Gas Transmission System Operator of Ukraine, was successfully unbundled from Naftogaz.<sup>106</sup> However, none of the EaP states have **fully unbundled their electricity and gas sectors** as envisaged in the EU’s Third Energy Package.<sup>107</sup>

With regards to the **EU’s Third Energy Package**,<sup>108</sup> Moldova adopted a package of laws in 2016, but many requirements remain

unfulfilled. Meanwhile, Georgia is in the process of approving new energy legislation to align its regulations. In Ukraine, most requirements are already folded into relevant primary and secondary legislation, however, there is significant room for improvement when it comes to energy regulator independence.

With regards to **interconnections with EU countries** Azerbaijan and Moldova are the best performers.

Azerbaijan is a key energy partner for the EU, and currently supplies around 4.3% of the EU’s oil imports through the Baku-Tbilisi-Ceyhan oil pipeline.<sup>109</sup> Gas imports are a more recent development and through newly created supply links, the volume of exports from Azerbaijan to EU markets is scheduled to grow further.<sup>110</sup> Meanwhile, work is in progress on interconnections between Moldova and Romania’s energy systems, in the form of the Vulcanesti back-to-back electricity connection and power line to Chisinau, and the Iasi-Chisinau gas pipeline.

Georgia does not have energy interconnections with other contracting parties or EU Member States, except for bilateral cross-border capacity allocation on the interconnection with Turkey. The much talked about new interconnector between Ukraine and Poland was rejected at the beginning of 2020 on grounds that it was not commercially viable. Meanwhile, Belarus has operational electricity interconnections with

<sup>106</sup> Energy Community (2020) *Annual Implementation Report* <https://energy-community.org/implementation/IR2020.html> Accessed 12 August 2021.

<sup>107</sup> According to the EU, the unbundling of energy markets implies the separation of energy supply and generation from the operation of transmission networks. [https://ec.europa.eu/energy/topics/markets-and-consumers/market-legislation/third-energy-package\\_en](https://ec.europa.eu/energy/topics/markets-and-consumers/market-legislation/third-energy-package_en) Accessed 5 November 2021.

<sup>108</sup> The Third Energy Package for an internal gas and electricity market in the EU, which came into force on 3 September 2009, includes ownership unbundling and the establishment of independent national regulatory authorities.

<sup>109</sup> European Commission (2021) *Facts and Figures about EU-Azerbaijan Relations* [https://ec.europa.eu/neighbourhood-enlargement/system/files/2021-03/eap\\_factsheet\\_azerbaijan.pdf](https://ec.europa.eu/neighbourhood-enlargement/system/files/2021-03/eap_factsheet_azerbaijan.pdf) Accessed 7 November 2021.

<sup>110</sup> Jamestown Foundations (2021) *Azerbaijan’s Gas Reaches Europe*, 19 January 2021, <https://jamestown.org/program/azerbajjans-gas-reaches-europe/> Accessed 10 November 2021.

several EU countries via Lithuania,<sup>111</sup> and is a transit state for gas to EU countries through the Yamal-Europe transmission pipeline (owned by GazProm) and oil through the Druzhba pipeline system.

For Belarus, **energy efficiency** is one of the ways to increase the effectiveness of its economy and reduce dependency on external energy sources. The new Belarusian National Program 'Energy Efficiency for 2020 -2025' was adopted in February 2021. Meanwhile, the draft law of the Republic of Azerbaijan 'On the Efficient Use of Energy Resources and Energy Efficiency' was developed with the support of the Energy Charter within the framework of the EU4Energy programme.

With respect to **dedicated public entities for energy efficiency** it was confirmed that both Ukraine and Moldova have such agencies. Georgia does not have a comparable body, however, according to the Energy Efficiency law, the Ministry of Economy and Sustainable Development is obliged to implement energy efficiency policies in coordination with public and state agencies and the private sector. There are no dedicated entities responsible for energy efficiency in Armenia or Azerbaijan. However, one of the remits of Azerbaijan's Energy Regulatory Agency is to exercise control over ensuring the efficient use of energy resources, as well as taking measures to prevent or reduce the negative impact of energy activities on the environment.

All EaP countries have **renewable energy related legislation**. Developments in Belarus are regulated through national legislation and presidential Decrees. In Azerbaijan, energy related laws and regulations have renewable energy-related provisions. Legislation for renewable energy in Moldova sets binding national targets for the share of renewable energy in gross final energy consumption, as well as the share of renewable energy in the final consumption of energy in transport.

According to World Bank statistics from 2018 the **share of renewable energy as part of final energy consumption** varied considerably across the region. Georgia is in first place with 28%, followed by Moldova with 26%, Armenia with 11%, Belarus 7%, Ukraine 7% and Azerbaijan at 2%.<sup>112</sup>

Meanwhile, **energy import dependence** is strong in the EaP region, with four out of six states relying on imports for more than 50% of their needs. According to IEA statistics from 2018 all EaP states, apart from Azerbaijan, are heavily dependent on energy imports, topped by Belarus at 86%, Moldova at 82%, Georgia at 77%, Armenia at 75% and Ukraine at 35%.<sup>113</sup>

In terms of **access to energy**, World Bank indicators suggest that all six EaP countries obtain the highest score in this component, since all of them have 100% electrification rates.<sup>114</sup>

<sup>111</sup> IEA, (2021) *Belarus Energy Profile, Market Structure* <https://www.iea.org/reports/belarus-energy-profile/market-structure#abstract> Accessed 12 August 2021.

<sup>112</sup> World Bank Database from the SE4ALL Global Tracking Framework led jointly by the World Bank, International Energy Agency and the Energy Sector Management Assistance (2021) *Sustainable Energy for All* <https://data.worldbank.org/indicator/EG.FEC.RNEW.ZS?end=2018&locations=AM-BY-AZ-GE-MD-UA&start=2018&view=bar> Accessed 10 November 2021.

<sup>113</sup> IEA (2021) *Countries and Regions* <https://www.iea.org/countries> Accessed 30 October 2021.

<sup>114</sup> World Bank (2019) *Access to electricity (% of population)*, <https://data.worldbank.org/indicator/EG.ELC.ACCS.ZS> Accessed 12 August 2021.

## RECOMMENDATIONS

### To civil society:

- Strengthen and improve the monitoring of energy sector reforms on national and regional bases. Engage in public awareness raising campaigns.

### To public authorities:

- Continue to work towards the independence of energy sector regulators.
- Start phasing out inefficient tariff subsidies. Target financial support schemes to vulnerable consumers only.
- Raise public awareness of the need for market reforms. Explain market liberalisation principles and unbundling. Ensure, that transition processes are as painless as possible for consumers.
- Continue work on interconnectors with the Energy Community and EU states, supporting investments in this direction.
- Accelerate the process of adopting and implementing primary and secondary legislation on energy efficiency and renewable energy.

### To the EU:

- Support is needed by EaP states to develop competitive power and gas markets, the phasing out of inefficient energy subsidies, developing energy interconnectors with the Energy Community and EU countries, developing primary and secondary legislation on energy efficiency and renewable energy.
- Support local CSOs to increase their technical and communication capacities in the monitoring and evaluation of reforms in the energy sector.
- Support activities that enhance cooperation between governmental and non-governmental sectors to promote sufficient oversight of reforms and increase transparency and accountability.



## ENVIRONMENT AND CLIMATE POLICY

ENVIRONMENT AND CLIMATE POLICY	
RANK	2020/21
MOLDOVA	0.94
UKRAINE	0.74
GEORGIA	0.71
AZERBAIJAN	0.61
ARMENIA	0.60
BELARUS	0.40

**The gap between the Associated Trio and the other three states is substantial, as is the gap among the Trio. Moldova is the clear frontrunner after making significant progress from 2017. Georgia's score also appreciated. Ukraine's score was characterised by inertia, which put it into third place. Azerbaijan moved up the ranking into fourth place after a notable rise in its score since 2017. Armenia took fifth place. Belarus holds the last place, with a deep drop from its third place in 2017.**

All EaP states, apart from Azerbaijan, are in possession of an up to date **environmental strategy**. Belarus adopted an environmental strategy in 2011 for the period up to 2025,<sup>115</sup> and in 2014 the government of Moldova approved an Environmental Strategy for the period 2014-2023.<sup>116</sup> In 2018 the Government of Armenia approved the Environmental protection and natural resources management strategy and measures programme 2018-2022. Meanwhile, in May 2018 the Georgian government adopted its third National Environmental Action Programme for 2017-2021.<sup>117</sup> In 2019 the Verkhovna Rada of Ukraine adopted the basic principles of the state environmental policy of Ukraine for the period up to 2030.<sup>118</sup> Azerbaijan has not adopted a national environmental strategy since 2003.<sup>119</sup>

With regards to **stakeholder engagement** in the formulation of strategies on environmental protection in line with Aarhus Convention principles, the Associated Trio were the best performers. In Georgia an inter-agency working group was created, whilst in Moldova, the Ministry of the Environment, with support from UNDP, conducted public consultations on the draft strategy. Wide consultations

and discussions were also held during the development of the environmental strategy in Ukraine. Meanwhile, in Armenia, the draft strategy was made available online.

The **comprehensive nature of national strategies** varied across the region.<sup>120</sup> Evidence suggested that Georgia and Moldova had the most comprehensive approach and Armenia the lowest. Connected with this is the question as to whether environmental policy legislation is legally required to be **integrated into legislation relating to other policy sectors**, as is international best practice. On this indicator, Azerbaijan, Georgia and Moldova are the best performers.

With regards to the **control of trade in forestry**, Belarus, Georgia and Moldova are recorded as leaders. In May 2020 the Georgian Parliament adopted the Forest Code, which regulates forest management. In 2021 Belarus adopted a presidential decree on improving the timber trade.<sup>121</sup> Meanwhile, in Moldova the EU continues to support national forestry projects and contributed to conservation and the improvement of forest-related legislation in the country.<sup>122</sup>

<sup>115</sup> Ministry of Natural Resources and Environmental Protection of the Republic of Belarus (2011) *Strategy on Environment Protection of the Republic of Belarus for the period till 2025*, [https://minpriroda.gov.by/ru/new\\_url\\_1670219329-ru/](https://minpriroda.gov.by/ru/new_url_1670219329-ru/) Accessed 6 August 2021.

<sup>116</sup> The Ministry of Environment of the Republic of Moldova (2014) *Environmental Strategy for the Years 2014-2023*, <https://www.unep.org/resources/report/environmental-strategy-years-2014-2023> Accessed 6 August 2021.

<sup>117</sup> The Ministry of Environmental Protection and Agriculture of Georgia (2018) *Third National Environmental Action Programme of Georgia 2017-2021*, <https://mepa.gov.ge/En/PublicInformation/66> Accessed 6 August 2021.

<sup>118</sup> The Parliament of Ukraine (2020) *The basic principles (strategy) of the state environmental policy of Ukraine for the period up to 2030*, 28 February 2019, <https://zakon.rada.gov.ua/laws/show/2697-19%23Text#Text> Accessed 6 August 2021.

<sup>119</sup> Presidential Decree (2003) *The National Programme on Environmentally Sustainable Socio-Economic Development of Azerbaijan*, Adopted 18 February 18 2003, <http://extwprlegs1.fao.org/docs/pdf/aze183217.pdf> Accessed 12 November 2021.

<sup>120</sup> A comprehensive environmental strategy contains sufficient information on planned institutional reforms, information on enforcement and control agencies, division of competences for environmental administration at national, regional, and municipal levels, procedures for decision-making, procedures for the implementation of decisions, procedures to promote the integration of environmental matters into other policy areas, identification of necessary human and financial resources and review mechanisms

<sup>121</sup> President's Decree of the Republic of Belarus (2021), 2021 №50, 18 February 2021, <https://pravo.by/document/?guid=12551&p0=P32100050&p1=1&p5=0> Accessed 12 August 2021.

<sup>122</sup> European Union (2018) *The Forest Code and poplar plantations: How Moldova was preparing for the forest sector reforms*, 31 May 2018, <https://euneighbourseast.eu/news-and-stories/stories/the-forest-code-and-poplar-plantations-how-moldova-was-preparing-for-the-forest-sector-reforms/> Accessed 29 October 2021.



EaP states have ratified, approved or accepted the **Paris Agreement on Climate Change**.<sup>123</sup> However, not all have produced and communicated a Nationally Determined Contribution (NDC), which is supposed to be updated every five years. Moldova was the first country to update its first NDC in 2020, followed by Georgia, Armenia and Ukraine in 2021. Azerbaijan and Belarus have not submitted updated NDCs.<sup>124</sup> Similarly, not all states are up to date with national strategies and National Adaptation Plans of Action (NAPA), which define climate adaptation measures at the country level. Armenia adopted its National Adaptation Plan and List of Measures for 2021-2025. Ukraine drafted the order of the Cabinet of Ministers of Ukraine on approval of the Environmental Safety Strategy and Adaptation to Climate Change by 2030. Meanwhile, Azerbaijan started developing its National Adaptation Plan for climate change resilience. Georgia does not yet have a National Climate Adaptation Strategy. Though the Ministry of Environmental Protection and Agriculture has ongoing negotiations with donors to start working on a NAPA. Meanwhile, Belarus does not have an adaptation strategy and there are no plans for its development.

With regards to the adoption of **sectoral strategies on climate change**, all EaP states have developed initiatives. For example, Belarus prepared adaptation strategies for forestry and agricultural sectors, though it still lacks an action plan. Moldova developed adaptation to climate change within its health sector reforms,<sup>125</sup> and Armenia is in the midst of developing a water sector adaptability programme to climate change. In the case of Azerbaijan, the '2020 Horizon Conception' and 'Azerbaijan 2030: National Priorities in Social-Economic Development Strategies' both highlight climate change impacts on the country's society and economy and the importance of preparing necessary policy measures.<sup>126</sup> Regarding **cross-sectoral coordination bodies and climate change**, Georgia, Moldova and Ukraine are the best performers.

Concerning **measurement, reporting and verification** (MRV) systems on climate change, in January 2021 Ukraine adopted a law on principles of monitoring, reporting and verification of greenhouse gas emissions.<sup>127</sup> Also in January 2021 Armenia and Georgia set about developing domestic MRV systems on climate change and Azerbaijan reportedly intends to establish a national MRV system under the EU4climate programme.

<sup>123</sup> The Paris Agreement is a legally binding international treaty on climate change. It was adopted by 196 Parties at COP 21 in Paris on 12 December 2015 and entered into force on 4 November 2016.

Paris Agreement, United Nations Treaty Collection [https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtidsg\\_no=XXVII-7-d&chapter=27&clang=en](https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtidsg_no=XXVII-7-d&chapter=27&clang=en) Accessed 12 August 2021.

<sup>124</sup> UNFCCC NDC Registry (Nationally Determined Contributions) <https://www4.unfccc.int/sites/NDCStaging/Pages/All.aspx> Accessed 12 November 2021.

<sup>125</sup> Government of the Republic of Moldova (n.d) *Strategia sectorială de adaptare a Sistemului de sănătate la Schimbările climatice* [http://adapt.clima.md/public/files/publication/STRATEGIA\\_SECTORIALA\\_SANATATE.pdf](http://adapt.clima.md/public/files/publication/STRATEGIA_SECTORIALA_SANATATE.pdf) Accessed 12 August 2021.

<sup>126</sup> Government of Azerbaijan, *2020 Horizon Conception and Azerbaijan 2030: National Priorities in Social-Economic Development Strategies* [https://president.az/files/future\\_az.pdf](https://president.az/files/future_az.pdf) <http://e-qanun.az/framework/46813> Accessed 11 September 2021.

<sup>127</sup> Parliament of Ukraine (2020) *Law of Ukraine on the principles of monitoring, reporting and verification of greenhouse gas emissions* <https://zakon.rada.gov.ua/laws/show/377-20#Text> Accessed 12 August 2021.

<sup>128</sup> Government of the Republic of Moldova (2021) *Moldovan Cabinet Approves Reorganisation of four Ministries*, 12 August 2021, <https://gov.md/en/content/moldovan-cabinet-approves-reorganisation-four-ministries> Accessed 12 November 2021.

## MOLDOVA AS AN ENVIRONMENTAL FRONTRUNNER – PROSPECTS FOR REGIONAL LESSON LEARNING?

Moldova emerged as the EaP's climate and environmental frontrunner and hopes are high that the new government will step up the implementation of environmental legislation even further. For the first time, Moldova has a government that has established national priorities that specifically highlight the environment.

The (re) creation of Moldova's Ministry of Environment by the new government is a demonstration of the administration's commitment to the sector.<sup>128</sup> It reverses the decision made back in 2017 to merge the Ministry of Environment with the Ministry of Agriculture and Ministry of Regional Development, which saw reductions in the number of staff and a diminishing of the relative importance of climate and environment.

Climate Change was an area in which Moldova performed particularly well, with important lessons for the wider EaP region. Moldova's approach was:

**Pro-active:** Moldova was the fourth country in the world to present an updated Nationally Determined Contribution (NDC2) to the Secretariat of the United Nations Framework Convention on Climate Change (UNFCCC).

**Consultative:** The NDC2 was developed with the support of the EU4Climate regional Project and presented for public consultation in January 2020, via a national consultative workshop with public authorities and other stakeholders, including academia, CSOs, private entities and business associations. Moreover, Moldova performed stakeholder consultations in line with the Aarhus Convention principles.

**Cross-sectoral:** Moldova established sectoral targets for reducing greenhouse gas emissions, with EU support. A low-emission national development programme was developed by experts from EU4Climate and implemented by UNDP and other consortium partners, to translate Moldova's commitments under the Paris Climate Agreement into national development policies. These were expressed in the updated NDC, according to which the country will unconditionally reduce greenhouse gas emissions by 70% compared to 1990 by 2030, and by 88% if it has access to technical and financial assistance.

Moldova's achievements in climate change provide important lessons for other EaP states, and at the same time food for thought on what is still missing and needed to sustain these gains, prevent inertia and ensure future policy development in line with EU and international standards. Including (a) There is a regional need for more environment and climate experts to populate core and line ministries as well as the CSO sector (b) Governments need to allocate the necessary resources to follow-up on their climate and environment pledges. It should include earmarked state funds to carry out impact assessments, rather than relying on CSOs to do the job (c) Measures need to be taken to ensure that judiciaries and Parliaments are competent in climate and environmental issues to be able to legislate and prosecute.

## RECOMMENDATIONS

### To civil society:

- Strengthen and improve monitoring of environmental reforms in EaP countries. Engage in public awareness raising campaigns on reform-related issues.
- Strengthen regional cooperation amongst CSOs working in the field and build activities based on lessons learned.

### To public authorities:

- Develop overall and sectoral strategies on state environmental policy identifying priority problems and issues in environmental and natural resource management. Ensure that objectives outlined in environmental policy and strategies are SMART (specific, measurable, achievable, relevant, and time-bound).
- Ensure the full and efficient implementation of the Aarhus Convention and guarantee public participation in projects, plans, programmes and strategies affecting the environment. Ensure citizen's concerns are taken into due account.
- Armenia and Belarus should develop effective horizontal instruments including laws on environmental impact assessment (EIA) and strategic environmental assessment (SEA). All EaP countries should ensure compliance of national legislation on EIA and SEA with the main guiding principles of EU directives.
- Develop National Climate Adaptation Strategies or equivalent National Adaptation Programmes of Action (NAPA) defining climate adaptation measures, so that countries can identify priority activities that respond to their urgent and immediate needs.
- If not in place, establish MRV systems on climate change at national levels and assure effective measurement, reporting and verification (MRV) of GHG emissions, mitigation and adaptation policies and measures.

### To the EU:

- Continue supporting governments in environmental sector reform planning and implementation; developing National Climate Adaptation Strategies and Programmes and establishing sustainable MRV systems on climate change.
- Support local CSOs in EaP countries to increase their technical and communication capacities for monitoring and evaluating reforms to increase transparency and accountability.

## TRANSPORT REGULATORY POLICY

TRANSPORT REGULATORY POLICY	
RANK	2020/21
UKRAINE	0.71
ARMENIA	0.63
GEORGIA	0.63
MOLDOVA	0.61
BELARUS	0.48
AZERBAIJAN	0.46

COVID-19 brought to the fore fundamental and unparalleled challenges for authorities and CSOs to do with mobility and logistics. More specifically, how, under pandemic conditions, people and goods could be transported efficiently and safely. The pandemic and its fallout also presented opportunities for all stakeholders to consider how future mobility systems could be reconceived to make them more equitable, accessible, sustainable and low-carbon. Attention has been placed on the creation of Sustainable Urban Mobility Plans (SUMPs) and Sustainable Urban Logistical Plans (SULPs).

There is a general positive trend of convergence towards EU and international norms in this sector across the EaP region as a whole. EaP states are quite well integrated into international logistic chains, which demonstrates progress in conforming national transport policies to EU and international practices. Ukraine topped the scorecard chiefly because of the progress made vis-à-vis independent transport regulators and investigation bodies. In terms of market economy and fair competition issues, Moldova and Georgia are slightly more advanced than Ukraine, while Armenia, according to the results, has the most liberalised transport sector.

Roads and railway tracks are owned and **managed by the state** in all EaP countries, which by international and European standards is not unusual. There are some nascent efforts to introduce market mechanisms into road maintenance activities by assigning private operators, but this is a long way from genuine competition. Ports and airports are more likely to be exposed to concessions and other forms of private ownership and management, which is evidenced in the cases of Ukraine, Georgia, Moldova and Armenia.

**Independent regulators** are in place in all EaP countries for air, road and waterborne transport. Railway safety agencies are possibly about to emerge in the contexts of national railway sector

**Five of the six EaP states saw their scores appreciate since 2017. Though Ukraine experienced inertia, it still remains the frontrunner and tops the scorecard again. Georgia and Armenia's progress leveraged them up into joint second place. Both Belarus and Azerbaijan also showed some progress, however they remain at the bottom the scorecard. The gap between the top four scorers and the bottom two is significant.**

reforms in some countries. Independent transport accident and incident investigation bodies are yet to be fully realised. Consequently, investigations are carried-out by transport regulators, line ministries or public prosecutor's offices.

Consolidated transport, mobility and **connectivity strategies** are elaborated in all EaP countries, except in Belarus.

There is a palpable difference in the pace of convergence and legal approximation in the Associated Trio versus the other three states. AAs and DCFTAs are having the effect of concentrating the efforts of authorities and CSOs on transposing EU transport policies onto national legislation. This resulted in such regulatory-related developments as (a) Ukraine's adoption of the Law on inland waterways, which is important for the resumption of river passenger traffic and the resumption of terminals and related infrastructure (b) Moldova's adoption of insurance requirements in aviation, operational requirements and procedures for aircraft, airworthiness, crews and small airports (c) The Moldovan Railway Code draft was approved by government, consequently, the railway sector is set for comprehensive reforms, after the adoption of the code by Parliament. No significant transport-related regulatory milestones in Armenia and Azerbaijan were recorded.

In the context of all six countries, **the introduction of market mechanisms in the railway sector** is problematic. The unbundling of national railway conglomerates is complex and controversial across Europe as a whole. The financial struggles of railway operators, strong trade unions, huge infrastructure and rolling stock challenges make for a unique blend of intricate problems to solve.

All six countries have elaborated **consolidated transport strategies**, but none have managed to establish an efficient implementation and reporting mechanism for this.

## TRANSPORT DEVELOPMENTS IN GEORGIA – EU COMPLIANCE AND REGION BUILDING

Georgia moved ahead with multiple transport initiatives aimed at improving the sustainability of its infrastructure, smart transport systems, road safety standards and cross-country connectivity. 2020/21 revealed three standout developments in this respect, with regional significance.

Reducing reliance on cars in Tbilisi is at the heart of the city's strategy to render the capital both greener and safer, with roads being reconceived as 'shared spaces'. This objective gels with the notion of Green Cities and in particular the goal of improving Tbilisi's air quality, which is an EIP Flagship initiative for Georgia. The Mayor of Tbilisi, Kakha Kaladze, declared that the interests of pedestrians, bus passengers and cyclists and not just private car drivers have to be at the forefront of the city's transport culture.<sup>129</sup> To this end, in August 2020 the city's first pedestrian-only road was opened in the district of Vake. Furthermore, existing and future roads in and around the city are being reconceived as shared spaces for bikes, pedestrians, public transport, as well as cars. Creating more designated bus lanes, as envisaged in the Tbilisi Bus Transit (TBT) system of August 2020, is another element in the city's plan and in particular to reduce car emissions, de-clog the capital's transport arteries and improve road safety standards.

Road safety and sustainable green mobility are seeing improvements, showing that Georgia is complying with EU good practice. For example, from March 2022 driver's licences will be mandatory for drivers of mopeds and quad bikes, which will see Georgia meeting its road safety responsibilities under the EU Association Agreement.<sup>130</sup> Road safety efforts have also been furthered via quality improvements to the monitoring of the condition of vehicles and the introduction of practical training for new drivers.

In recognition of its prioritisation of road safety issues Georgia was selected in June 2021 to be the location of the Secretariat of the EaP Road Safety Observatory. The main purpose of the Observatory is to promote road safety in EaP states, based on best European and international experiences.<sup>131</sup> The project will be implemented by the Policy Institute of the International School of Economics (ISET) at Tbilisi State University and the International non-governmental organisation - The Eastern Alliance for Safe and Sustainable Transport (EASST). The Observatory will establish an integrated analytical platform and collect specialised information concerning road safety practice and statistical data from EaP states on road safety.<sup>132</sup>

Interconnectivity is a third feature in Georgia's transport policies. The Ministry of Regional Development and Infrastructure, alongside local municipalities has made significant improvements to secondary roads and inter-connectivity across the country. 189 local projects on construction and road maintenance are currently underway. The opening of the road between Imereti and Racha in September 2021 ensures not only an improvement to travel to Tbilisi (from six down to 2.5 hours travel time), but, importantly, also improves regional connectivity.

Georgia's efforts in the sphere of transport align with the EU-compliant road building Top Ten Priority in the JSWD and the Flagship activity in the EIP for Georgia, namely to improve air quality for over one million people in Tbilisi.

<sup>129</sup> Eastern Alliance for Safe and Sustainable Transport (2020) *Tbilisi unveils its first shared and pedestrian-friendly avenue*, 19 August 2020, <https://www.easst.co.uk/tbilisi-unveils-its-first-shared-and-pedestrian-friendly-avenue/> Accessed 2 November 2021.

<sup>130</sup> Agenda.ge (2021) *Driver's license to be mandatory for moped, quad-bike drivers starting March 1 2022*, 6 September 2021, <https://www.agenda.ge/en/news/2021/2544> Accessed 2 November 2021.

<sup>131</sup> Ministry of Economy and Sustainable Development of Georgia (2021) *The Secretariat of the EaP Road Safety Observatory will be placed in Georgia*, 1 June 2021. <http://www.economy.ge/?page=news&nw=1689&lang=en> Accessed 2 November 2021.

<sup>132</sup> Georgia Today (2021) *Road Connecting Imereti-Racha Opens*, 28 September 2021. <https://georgiatoday.ge/road-connecting-imereti-racha-opens/> Accessed 4 November 2021.

## RECOMMENDATIONS

### **To civil society:**

- Ensure involvement for CSOs in the inception and monitoring phases of government's strategies for post-pandemic transport systems.
- Ensure that authorities are practicing inclusive policies in the re-design of transport systems, and that equality and accessibility, especially for vulnerable communities, are given full consideration.
- Alongside authorities, spread awareness about the importance of road safety.

### **To public authorities:**

- Reinforce endeavours at harmonising national legislation with relevant EU acquis and continue to put into practice the rules that have already been adopted.
- Prioritise the creation and implementation of Sustainable Urban Mobility Plans (SUMP) and Sustainable Urban Logistical Plans (SULP) in line with EU and international best practices, and also in due consideration of accessibility for vulnerable groups.

### **To the EU:**

- Share best practice and help build local expertise in EaP states on SUMP and SULP.
- Provide adequate resources for the EaP Road Safety Observatory in Tbilisi.
- Alongside EaP authorities and CSOs create effective road safety campaigns.



# SUSTAINABLE DEVELOPMENT

The COVID-19 pandemic had considerable consequences on the capacities of EaP states to meet their commitments to the UN Sustainable Development Goals (SDGs).<sup>133</sup> The emergency meant that authorities had to switch available resources towards immediate health-related services, which invariably meant that other socio-economic development projects slipped down national agendas.<sup>134</sup> In the context of post-pandemic recovery strategies, EaP authorities will need to engage CSOs in regular, meaningful and structured dialogues and use the SDGs as core focal points.

Recent research by UNDP suggested that an 'SDG Push' on the part of stakeholders, implying 'bold policy choices' and investments into governance, social protection, green economy and digitalisation, could help countries exceed their pre-pandemic development trajectories.<sup>135</sup>

## PEOPLE

### Poverty prevention and health (SDGs 1, 2, 3)

The pandemic created highly unfavourable conditions for fighting poverty across the globe. In the context of the EaP, Georgia and Armenia were the two most vulnerable states with regards to poverty, despite the overall decline in poverty that had occurred over previous decades. According to the Gini index,<sup>136</sup> (which measures degrees of inequality within a country based on the distribution of incomes) Georgia and Armenia were the most unequal states, with scores of 35.9 and 29.9 respectively for 2019. During the same year Belarus' score was 25.3 and Ukraine's 26.6 (the higher the score the higher the level of inequality).

On the prevalence of severe food insecurity in the population (%), Georgia is the worst performer, based on 2019 figures. According to the World Bank 9.5% of the Georgian population are subject to severe food insecurity. The next worst scorer is Moldova at 4.5%.<sup>137</sup>

General life expectancy at birth in EaP states in 2020 remained at over 70 years old. Armenians have the highest life expectancy at 74,8 years and Moldova the lowest at 71,7 years. Belarus remained the leader in the majority of health-related indicators, with the lowest maternal mortality rate, neonatal mortality and mortality of children under five. Azerbaijan continued to have the worst record on these indicators, even though it had registered some progress. All EaP countries reached their 2030 targets according to these indicators, but have not yet met long-term targets relating to mortality.<sup>138</sup>

The pandemic put unparalleled stress on health systems, which led to a general fall in the quality of services. The fact that healthcare in EaP countries is mostly financed by households, rather than the state (with the exception of Belarus), exacerbated this situation.<sup>139</sup> Prior to the pandemic, challenges remained in all states when it came to achieving universal health coverage. Georgia and Belarus were seemingly the most prepared for the pandemic in the sense that they had the highest numbers of medical doctors per 1,000 people. However, in Belarus in the context of post-election repression, many doctors and other medical professionals were laid off or migrated to other countries, which meant that authorities had to invest into training new medical personnel. Meanwhile, Georgia had one of the slowest vaccination rollouts in the region

<sup>133</sup> United Nations *Sustainable Development Goals* <https://sdgs.un.org/fr/goals> Accessed 4 October 2021.

<sup>134</sup> The evaluation of the performance of the EaP countries in 2020-2021 in relation to the SDGs relies mainly on UN data. Due to the pandemic there have been delays in publishing some of the statistics covering 2020, to fill the gaps UN statistics for 2017-2019 and other 2020-2021 indexes and data from other international organisations is used. Where possible, performance will be compared with the results of the 2017 Index.

<sup>135</sup> Abidoye, B., Felix, J., Kapto, S. & Patterson, L. (2021). *Leaving No One Behind: Impact of COVID-19 on the Sustainable Development Goals (SDGs)*. New York, NY and Denver CO: United Nations Development Programme and Frederick S. Pardee Center for International Futures. Accessed 9 November 2021.

<sup>136</sup> The World Bank (2021) *Gini index* (2019 estimate) <https://data.worldbank.org/indicator/SI.POV.GINI?end=2019&locations=AM-AZ-BY-GE-MD-UA&start=1992&view=chart> Accessed 13 November 2021.

<sup>137</sup> The World Bank (2021) *Prevalence of severe food insecurity in the population (%)* <https://data.worldbank.org/indicator/SN.ITK.SVFI.ZS?locations=AM-AZ-BY-GE-MD-UA> Accessed 12 November 2021

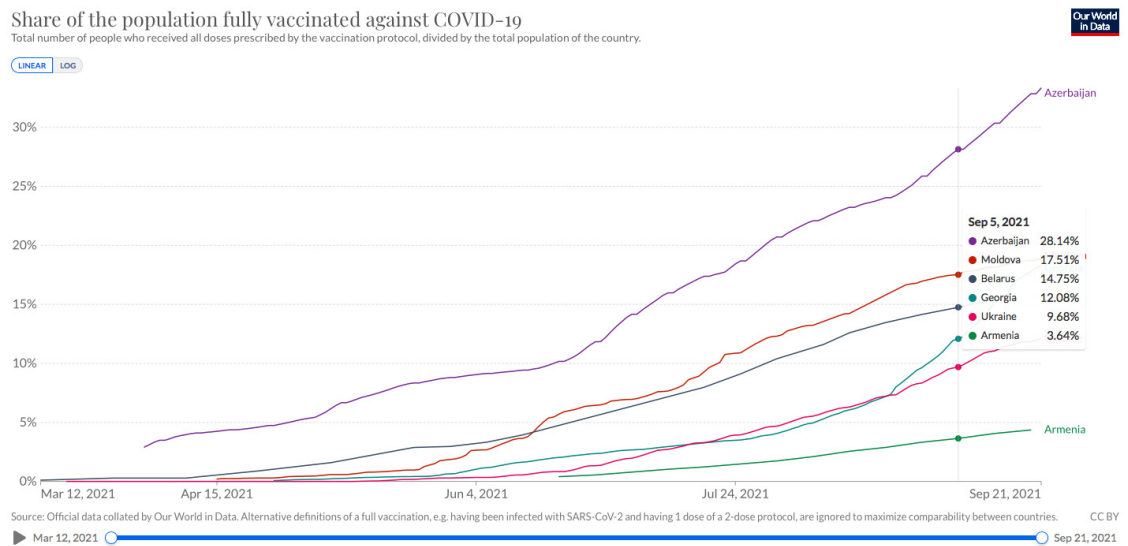
<sup>138</sup> SDGs aim to reduce maternal deaths to a maximum of 70 per 100,000 live births, reduce the newborn deaths to a maximum of 12 per 1,000 live births and reduce deaths of children under-5 to a maximum of 25 per 1,000 live births.

<sup>139</sup> OECD (2020) *COVID-19 crisis response in Eastern Partners countries*, 13 October 2020, [https://read.oecd-ilibrary.org/view/?ref=129\\_129637-ttbr2lwwsh&title=COVID-19-Crisis-Response-in-EU-Eastern-Partner-Countries&ga=2.223936859.1385679141.1632299986-1309189392.1627127832](https://read.oecd-ilibrary.org/view/?ref=129_129637-ttbr2lwwsh&title=COVID-19-Crisis-Response-in-EU-Eastern-Partner-Countries&ga=2.223936859.1385679141.1632299986-1309189392.1627127832) Accessed 22 September 2021.

and at the time of writing holds fourth position with regards to the proportion of its population being fully vaccinated.

The overall vaccination rate in EaP countries was slow. As of September 5<sup>th</sup> 2021, the proportion of fully vaccinated people ranged from 3.64% in Armenia to 28.14% in Azerbaijan. This is despite participation in the international vaccine-sharing COVAX mechanism.

### Share of the population fully vaccinated against COVID-19<sup>140</sup> (figures generated 21 September 2021)



Social protection for vulnerable groups during the pandemic was a vital tool against potential rises in poverty. Whilst this was also the case in EU countries, socio-economic conditions and low levels or even absence of social protections and labour programmes in EaP states, meant that the effects of the pandemic for vulnerable groups in the region were acute and a challenge for authorities and CSOs.

### Education (SDGs 4, 9)

The quality of education suffered as a result of lockdowns and like other states around the world, EaP authorities faced immense challenges to set up and maintain online and offline education.

EaP states had pre-existing problems with regards to the provision of education, which were exacerbated by COVID-19 and its fallout. Whilst the general literacy rate in the region is very high, none of the EaP states performed well in the OECD's Programme for International Student Assessment (PISA).<sup>141</sup> Based on 2018 data and out of the 77 countries being assessed, Belarus achieved the highest position amongst the EaP states, ranked in 36<sup>th</sup> place. Next came Ukraine in 40<sup>th</sup> place, followed by Moldova in 51<sup>st</sup> and Azerbaijan in 62<sup>nd</sup> place. Georgia brought up the rear to take 69<sup>th</sup> place (no data was available for Armenia).<sup>142</sup>

EaP universities did not perform well in World University Rankings.<sup>143</sup> However, this was not a direct result of the pandemic, since systemic problems already existed in the tertiary sector. COVID-19 brought with it challenges with regards to funding, students numbers, online teaching, as well as student and staff international mobility.

The ratings of the majority of EaP countries were low in the context of publications in Western scientific journals. Scimago Journal and Country Rank, which is based on Scopus data as of April 2021, found Moldova to be the worst performer amongst the EaP region, with a score of 127 (across all subject areas). Ukraine was by far the leader with 321 points, which put it in fifth place in Central and Eastern Europe.<sup>144</sup>

<sup>140</sup> [https://ourworldindata.org/grapher/share-people-fully-vaccinated-covid?country=OWID\\_WRL~ARM~AZE~MDA~UKR~GEO~BLR](https://ourworldindata.org/grapher/share-people-fully-vaccinated-covid?country=OWID_WRL~ARM~AZE~MDA~UKR~GEO~BLR) Accessed 21 September 2021.

<sup>141</sup> PISA scores relate to an OECD study that measures scholastic performance of 15 year olds in mathematics, science and reading. See <https://www.oecd.org/pisa/data/2018database/> Accessed 10 November 2021.

<sup>142</sup> <https://factsmaps.com/pisa-2018-worldwide-ranking-average-score-of-mathematics-science-reading/> Accessed 14 August 2021.

<sup>143</sup> The Times Higher Education. *World University Rankings 2021*. [https://www.timeshighereducation.com/world-university-rankings/2021/world-ranking#!/page/0/length/-1/sort\\_by/name/sort\\_order/desc/cols/stats](https://www.timeshighereducation.com/world-university-rankings/2021/world-ranking#!/page/0/length/-1/sort_by/name/sort_order/desc/cols/stats) Accessed 1 August 2021.

<sup>144</sup> Scimago Journal and Country Rank (2020) <https://www.scimagojr.com/countryrank.php?region=Eastern%20Europe> Accessed 11 November.

## Gender equality and inclusiveness (SDGs 5,16)

The pandemic reinforced gender inequalities globally and the EaP states did not escape this phenomenon. Women were more likely to be laid-off and were more often involved in home schooling, to the detriment of their careers. Levels of domestic violence also spiked.<sup>145</sup>

The UNDP's Gender Inequality Index ranked Georgia and Azerbaijan as the lowest amongst the EaP states, in 76<sup>th</sup> and 73<sup>rd</sup> respectively, out of 162 states. Armenia took 54<sup>th</sup> place, Ukraine 52<sup>nd</sup> and Moldova 46<sup>th</sup>. Ranked in 31<sup>st</sup> place, Belarus was the highest placed EaP state.<sup>146</sup> The UNDP Index does not, however, include other important gender-related indicators, such as measures of occurrences of gender-based violence (GBV). In Belarus there is no law on domestic violence, which means that occurrences are not well recorded.<sup>147</sup>

The Belarusian Parliament was the most gender-equal legislative body in the EaP region, with 34.9% of female deputies in 2021. But simultaneously, only about 20% of deputies in both chambers were 45 years or younger. Georgia has weak female representation in its Parliament, with only 14.8% of seats occupied by women. Azerbaijan scored poorly with only 16.8% of women and 30% of parliamentarians being under-45 years old. While there are no legislative obstacles for women or younger people to obtain high positions in EaP governments, social barriers and stereotypes present obstacles.<sup>148</sup>

## PLANET

### Water and sanitation (SDG 6)

EaP citizens continued to enjoy relatively good access to basic water and sanitation services, though necessary improvements were put on hold due to the pandemic. Moreover, provision can be patchy across countries, with the worst situations in rural areas, especially in connection with access to safely managed drinking water. In rural regions of Azerbaijan and Georgia, only about 30% of people had access to safely managed sanitation services.

### Responsible consumption and production (SDG 12)

EaP countries have lower consumption levels than EU states and therefore generate less municipal waste. Belarus recycles more of its municipal waste than the other EaP states, but it is still below EU standards.<sup>149</sup> The percentage of land dedicated to farming (arable land) continued to be high in both Ukraine and Moldova, at 56.8% and 51.1% respectively, based on 2018 figures. The EU average for the same period was 25%.<sup>150</sup>

### Climate and nature conservation (SDGs 13,14,15)

With 1.47 tCO<sub>2</sub>/capita Moldova was the only country in the EaP region that reached its goal in terms of greenhouse gas emissions from fossil fuel combustion and cement production. The other states still had had minor, major or significant challenges to confront.<sup>151</sup>

<sup>145</sup> UN Women (2020) *The Shadow Pandemic: Violence against women during COVID-19*, <https://www.unwomen.org/en/news/in-focus/in-focus-gender-equality-in-covid-19-response/violence-against-women-during-covid-19> Accessed 5 September 2021.

<sup>146</sup> United Nations Development Programme (2021) *Gender Inequality Index* <http://hdr.undp.org/en/content/gender-inequality-index-gii> Accessed 28 July 2021.

<sup>147</sup> Vasil Navumau and Olga Matveieva (2021) *The gender dimension of the 2020 Belarusian protest: Does female engagement contribute to the establishment of gender equality?* New Perspectives, 2021, 4.

<sup>148</sup> Anna Barseghyan (2020) *An Eastern Partnership that delivers for all, except women?*, 3 June 2020. <https://www.dahrendorf-forum.eu/an-eastern-partnership-that-delivers-for-all-except-women/> Accessed 21 September 2021.

<sup>149</sup> Turana Alieva, Nejla Ayvazi and Aliaksei Patonia (2021) *Eastern Partnership Civil Society Forum, Waste and Water Management in the Time of COVID-19: A Tale of Six countries*. <https://eap-csf.eu/wp-content/uploads/Waste-and-Water-Management-in-the-Time-of-the-COVID-19.pdf> Accessed 8 November 2021.

<sup>150</sup> The World Bank (2021) *Arable land (% of land area)* <https://data.worldbank.org/indicator/AG.LND.ARBL.ZS?locations=UA-MD-BY-GE-AM-AZ&view=chart> Accessed 13 November 2021.

<sup>151</sup> Sustainable Development Report (2021) *CO<sub>2</sub> emissions from fuel combustion and cement production (tCO<sub>2</sub>/capita), 2019* <https://dashboards.sdgindex.org/map/indicators/co2-emissions-from-fossil-fuel-combustion-and-cement-production> Accessed 4 August 2021.

The need to develop renewable energy remained a salient issue in the region. Georgia and Moldova scored the best on the percentage of renewable energy as part of their energy consumption mix, at 28% and 26% respectively. All other EaP states perform considerably worse. Azerbaijan had the lowest proportion of renewable energy within its overall mix, at only 1.97%.<sup>152</sup>

## PROSPERITY

### Sustainable and inclusive economic growth (SDGs 8, 10)

The pandemic brought multiple challenges for socio-economic development globally. In 2020, all EaP countries registered negative GDP growth and unemployment levels rose. In Belarus, which had a very low unemployment rate of 0.5% according to the 2017 Index, a rise in unemployment to 5.28% was recorded. Armenia and Georgia continued to have high unemployment rates, at 20% and 12% of the population. In this context, the situation with regards to the availability of unemployment benefits became an urgent matter. Georgia and Armenia had no such provision in their existing legislation for this and challenges also emerged in Belarus and Moldova.<sup>153</sup>

Supporting MSMEs was also a key variable during the pandemic as authorities sought to mitigate economic and social difficulties. As in the EU, MSMEs represent a significant element in business and economic sectors in EaP states and as such, they are recognised as drivers of post-pandemic recovery and resilience building.

Azerbaijan provided direct financial support to 300,000 individual entrepreneurs,<sup>154</sup> and also supported micro-entrepreneurs.<sup>155</sup> Armenia also supported SMEs and micro-entrepreneurs. The Georgian government's anti-crisis plan

presented a relief package for SMEs, especially those connected with tourism and those identified as vulnerable.<sup>156</sup>

Aside from the pandemic, many SMEs in Belarus suffered in the context of post-election repression and as a consequence, around 60% of start-up companies relocated outside of Belarus.<sup>157</sup>

### Resilient infrastructure, sustainable industrialisation and innovation (SDGs 9, 11)

COVID-19 led to an increase in the use of the Internet and the number of users. Based on 2020 figures, Belarus had the highest percentage of the population using the Internet at 85% amongst the EaP states, which was only just behind the EU at 88%. All other EaP states have lower scores and according to 2019 data Armenia appears to have the lowest percentage of its population using the Internet.<sup>158</sup>

The quality of trade and transport-related infrastructure remained average in the EaP region. The best trade and transport-related infrastructure was in Azerbaijan and the worst in Moldova. The quality of overall infrastructure remained the best in Ukraine and Belarus, at 32<sup>nd</sup> and 33<sup>rd</sup> place in the World respectively. It was significantly worse in Georgia, which came in 80<sup>th</sup> place, followed by Azerbaijan in 91<sup>st</sup>, Moldova in 105<sup>th</sup> and Armenia in 113<sup>th</sup> place.<sup>159</sup>

In terms of expenditure on research and development (R&D) as a percentage of national GDPs, all EaP states fall along way below the EU average, which was 2.1% in 2018. The biggest spender in this area is Belarus at 0.6%, followed by Ukraine at 0.5. Azerbaijan is the EaP that spends the smallest proportion of its GDP on R&D, according to 2018 data.<sup>160</sup>

<sup>152</sup> The World Bank (2021) *Renewable energy consumption (% of total energy consumption)* <https://data.worldbank.org/indicator/EG.FEC.RNEW.ZS?locations=UA-MD-AM-AZ-GE-BY&view=chart> Accessed 13 November 2021.

<sup>153</sup> Sustainable Development Report (2021) *Fundamental labour rights are effectively guaranteed.* <https://dashboards.sdgindex.org/map/indicators/fundamental-labor-rights-are-effectively-guaranteed> Accessed 14 August 2021.

<sup>154</sup> Republic of Azerbaijan (2021) *Third Voluntary National Review 2021* [https://sustainabledevelopment.un.org/content/documents/279452021\\_VNR\\_Report\\_Azerbaijan.pdf](https://sustainabledevelopment.un.org/content/documents/279452021_VNR_Report_Azerbaijan.pdf) Accessed 12 November 2021.

<sup>155</sup> Republic of Armenia (2020) *Voluntary National Review Report*, [https://sustainabledevelopment.un.org/content/documents/26318Armenia\\_VNRFINAL.pdf](https://sustainabledevelopment.un.org/content/documents/26318Armenia_VNRFINAL.pdf) Accessed 4 November 2021.

<sup>156</sup> Georgia Voluntary National Review (2020) [https://sustainabledevelopment.un.org/content/documents/26390VNR\\_2020\\_Georgia\\_Report.pdf](https://sustainabledevelopment.un.org/content/documents/26390VNR_2020_Georgia_Report.pdf) Accessed 12 November 2021.

<sup>157</sup> Bel.biz (2021) *Imaguru, Slozhnyi god. God posle avgusta 2020.* Startap Belarusi, (A difficult year. One year since August 2020. Start-ups of Belarus), Minsk. <https://bel.biz/wp-content/uploads/2021/09/StartupBelarusReport2021-1.pdf> Accessed 22 September 2021.

<sup>158</sup> The World Bank (2021) *Individuals using the internet (% of population)* <https://data.worldbank.org/indicator/IT.NET.USER.ZS?locations=UA-MD-AM-AZ-GE-BY-EU> Accessed 11 November 2021

<sup>159</sup> Global Quality Infrastructure Index Report (2020) <https://gqi.org/programme/> Accessed 1 August 2021.

<sup>160</sup> The World Bank (2021) *Research and development expenditure (% of GDP)* <https://data.worldbank.org/indicator/GB.XPD.RSDV.GD.ZS> Accessed 7 November 2021.



All EaP states had average scores, which were below those of the EU, in the 2021 Global Innovation Index. Ukraine took the highest position in the region, occupying 49th place and Azerbaijan was the lowest in 80<sup>th</sup> place.<sup>161</sup> This index includes panoply of indicators regrouped under the thematic groups: institutions, human capital and research, infrastructure, market sophistication, business sophistication, knowledge and technology outputs and creative outputs. The countries of the EaP demonstrated a very uneven distribution of scores in these categories, which signals disparities in their performance towards SDG targets.<sup>162</sup>

## PEACE AND PARTNERSHIP

### Peaceful, inclusive and just societies (SDGs 5, 10, 16)

The role of women in society, LGBTQI+ rights, crime and media freedom provide important insights as to the extent to which societies are inclusive.

When it comes to women in power, the proportion of women with seats in EaP Parliaments and senior judicial roles remains low. According to the OECD, Belarus is the best performer, with 40% of seats filled by women. However, it should be noted that given the very strong role of the President in Belarus, the power of the legislative and MPs is diminished. In second place comes Moldova with 25%, followed by Armenia and Ukraine, with 23% and 20% respectively. Next comes Ukraine with 20%, Azerbaijan with 15%, with Georgia residing at the bottom, with 14%.<sup>163</sup>

ILGA's composite 2020 'Rainbow Map', which measures the legal and policy situation of lesbian, gay, bisexual, trans and intersex people, found Georgia to be the highest scorer at 30%, followed by Ukraine with 22%, Moldova 19%, Belarus 13%, Armenia 8% and Azerbaijan 2% (100% implies full equality and respect of human rights).<sup>164</sup> Azerbaijan is recorded in the Rainbow Map as the overall worst performer in amongst the 49 states ranked.

According to the Institute for Crime & Justice Policy Research, at the end of July 2021, Belarus had 345 prisoners per 100,000 people in Europe, which is significantly more than the rest of the EaP.<sup>165</sup> Armenia had the lowest number of prisoners at 74 per 100,000 inhabitants. In 2018 Armenia also had the lowest number of homicides at 1,694 per 100,000 inhabitants.<sup>166</sup>

Belarus stood out due to its state-sanctioned violent repression of civil society. Since September 2020 authorities initiated liquidation procedures against dozens of CSOs.<sup>167</sup> At the time of writing there are no reports of successful appeals on these decisions through the courts. Some of these CSOs are involved in protection of vulnerable groups, the environment, and the promotion of the Belarusian language. This trend undermines efforts in establishing partnership between the state and civil society in progressing towards the SDGs.

Only Armenia and Georgia reached the SDG goal relating to free press. In the most recent 2021 World Press Freedom Index Belarus ranks 153<sup>rd</sup> out of 180 countries (its position dropped by five places since 2020). Azerbaijan was ranked close to the bottom of the list in 167<sup>th</sup> place.<sup>168</sup>

<sup>161</sup> Global Innovation Index 2021 (2021) *Tracking Innovation through the COVID-19 Crisis*, <https://www.globalinnovationindex.org/gii-2021-report#> Accessed 22 September 2021.

<sup>162</sup> Georgia achieved the best score on institutions and Ukraine the worst. Belarus scored the best in the category human capital and research and Armenia the worst. Belarus scored the best in infrastructure and Ukraine the worst. Georgia was the leader in market sophistication and Armenia the worst. Ukraine scored the best concerning business sophistication and Armenia the worst. Ukraine scored the best in knowledge and technology and Azerbaijan the worst. Armenia scored the best in creative outputs and Belarus the worst. <sup>163</sup> OECD (2021) *Gender Gaps in Eurasia: The daunting effects of COVID-19* <https://euneighbourseast.eu/news-and-stories/publications/gender-gaps-in-eurasia-the-daunting-effects-of-covid-19/> Accessed 8 November 2021.

<sup>164</sup> ILGA (2020) *Reflecting the legal and policy human rights situation of lesbian, gay, bisexual, trans and intersex people in Europe* <https://www.ilga-europe.org/sites/default/files/Attachments/ilgaeurope-rainbowmap-2020-interactive.pdf> Accessed 10 November 2021.

<sup>165</sup> Institute for Crime & Justice Policy Research (2021) *World Prison Brief* <https://www.icpr.org.uk/theme/prisons-and-use-imprisonment/world-prison-brief> Accessed 28 July 2021.

<sup>166</sup> Sustainable Development Goals (2021) *Homicides per 100,000 population* <https://dashboards.sdgindex.org/map/indicators/homicides> Accessed 14 August 2021.

<sup>167</sup> Amnesty International (2021) *Belarus: Sweeping closures of dozens of NGOs as the crackdown on civil society continues*, 23 July 2021. <https://www.amnesty.org/en/latest/press-release/2021/07/belarus-sweeping-closure-of-dozens-of-ngos-as-the-crackdown-on-civil-society-continues/> Accessed 12 November 2021.

<sup>168</sup> Reporters Without Borders (2021) *World Press Freedom index* <https://rsf.org/en/ranking> Accessed 14 August 2021.

# ANNEXES

## METHODOLOGY

The Eastern Partnership (EaP) Index measures the progress made by Armenia, Azerbaijan, Belarus, Georgia, Moldova and Ukraine – the six EaP countries – towards sustainable democratic development and European integration. The Index is constructed from a set of indicators based on expert assessments and available data sources. These indicators make it possible to compare the six countries cross-nationally, cross-sectorally, over time and in view of the standards underlying the Indices. Such comparisons can serve to

- Assess a country's performance broadly, summarizing detailed factual evidence;
- Focus on specific areas to examine what has been achieved and what is to be done;
- Track a country's development over several years;
- Juxtapose two or more EaP countries to assess similarities and differences.

The present note explains how the EaP Index is structured. The following sections will describe what is measured and how the measurement is organised to generate valid and reliable data.

## CONCEPTUAL FRAMEWORK

Like the Eastern Partnership initiative as a whole, the EaP Index is based on the principles and fundamental values shared by the member states of the European Union (EU) and their Eastern European partner countries: democracy, the rule of law and the respect for human rights and fundamental freedoms, as well as market economy, sustainable development and good governance. These values and principles have guided the Eastern Partnership since its inception in 2009 and they constitute enduring commitments by states and governments. Human rights, democracy and the rule of law also form essential values for the EU. Any European State that respects these values and is committed to promoting them may apply to become a member of the EU (Art. 2 and 49 of the EU Treaty).

Starting from common principles and values, the EaP Index assesses how far these shared commitments have been fulfilled by EaP countries. This is done by measuring to what extent the EaP countries have incorporated political institutions and policies of the EU and its member states. Functioning, effective political institutions and policies are considered to be the key to sustainable democratic development and European integration. The Eastern Partnership provides a unique opportunity to import and establish institutional and policy templates from the EU. However, the transposition and adoption of formal rules do not guarantee that they will also guide the behaviour of people and organisations subject to the new rules. Extensive experiences with post-communist policy reforms and development assistance

suggest that formal political institutions and policies are embedded in informal social norms and culturally coded understandings. These contextual conditions differ from one country to another. Their configuration affects how formal rules are put into practice and whether transnational policy transfers succeed or not. All too often have such transfer projects failed and created facade institutions hiding very different and sometimes unchanged social realities.

Thus, the EaP Index examines whether and how EaP objectives are achieved in the realities of EaP countries. Civil society organisations are best placed to perform such a reality check, because they do not belong to the incumbent government, they represent the views and concerns of engaged citizens and they often tap and pool considerable knowledge resources in society. Drawing on these resources, the EaP Index provides detailed, structured and comparable empirical evidence of political and institutional reforms in the EaP countries. Its indicators are designed to support civil society organisations and the public in monitoring the commitments of governments. Involving civil society and focusing on implementation also contributes to strengthen the resilience of EaP-induced reforms, in accordance with the EU's Global Strategy.

The Index covers three main sets of institutions and policies: (1) Democracy and good governance; (2) policy convergence with EU models and policies; (3) sustainable development. These issues are core themes of the Eastern Partnership and pose major policy challenges for all EaP



countries. They can also be seen as mutually reinforcing aspects of political, socioeconomic, environmental and transnational development. Democratic accountability is a necessary condition for responsible and responsive government that is committed to implement EaP policies and overcome obstacles to institutional reforms. The prospect of European integration and the 2030 Agenda set by the United Nations help EaP countries maintaining priorities, meet citizens' expectations and thereby reinforce popular support for democracy.

Such interrelations and interactions do not imply that democracy will engender EU integration and sustainable development, nor are the latter two achievements guarantees against democratic backsliding. The three dimensions of the EaP Index represent distinctive concepts to be measured. They reflect the multi-purpose nature of the Eastern Partnership itself. Since these concepts are quite general and may be understood differently, it is necessary to define the main concepts more precisely so that they can be measured.

## DEMOCRACY AND GOOD GOVERNANCE

Although democracy is an essential value shared by the EU and EaP countries, no precise and encompassing definition exists in international or European law. However, the Universal Declaration of Human Rights (UDHR) has stated the core idea: "the will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures." (Art. 21(3)) According to the UDHR, "everyone has the right to take part in the government of [her or] his country, directly or through freely chosen representatives" (Art. 21(1)). The UDHR recognises that free elections of political representatives presuppose not only political equality, but also fundamental political freedoms. These include the freedom of thought, conscience and religion, the freedom of expression and the freedom of peaceful assembly and association. These human rights are intrinsically linked to the idea of democracy.

But their enforcement is not sufficient to ensure a meaningful democracy, since the political freedoms underpinning electoral participation can only be effectively used by voters if they do not have to fear discrimination or repression. Thus, the political rights of citizens are linked to human and civil rights that need to be guaranteed and protected by independent courts. This protection of individual liberties applies particularly to those who support the political opposition or belong to electoral or structural minorities. To make informed political decisions, voters also need an independent and pluralist media sphere supplying non-governmental sources of information. These institutions and rights are stipulated in the European Convention for the Protection of Human Rights and Fundamental Freedoms, in declarations adopted by the Organisation for Security and Cooperation in Europe, in key EU legislation, such as the Charter of Fundamental

Rights, and in a large body of international court decisions.

Another necessary condition of meaningful democracy pertains to the exercise of political power. Governing presidents, executives and executive officials are not only accountable to voters in regular, free and fair elections; their powers are also constrained by the constitution and by general legislation. Labelled the rule of law, this principle ensures that the necessary delegation of political authority through elections is not misused by elected incumbents to monopolise power, infringe the rights of citizens, or other constitutional organs or manipulate the electoral process. While presidents are directly elected in all EaP countries, their constitutional and political powers differ. Unconstrained presidential powers and lifetime presidencies characterise the less democratic regimes in the post-Soviet region.

The exercise of presidential and executive powers should therefore be checked and balanced by an effective Parliament. To act effectively, the Parliament, parliamentary deputies and their groupings should have sufficient rights and resources to monitor policies, discuss and prepare legislation and in particular the public budget, investigate the work of the government and (de-) select key officials. Moreover, parliament should adequately represent all groups of the population in its composition, including women, opposition parties and minorities. Opposition deputies should be enabled to play a responsible and constructive role in parliamentary deliberation. Effective parliamentary accountability is complemented by independent courts entitled to examine the constitutionality / legality of executive actions and laws. Parliamentary accountability is embedded in a wider notion and setting of public accountability where independent media, civil society and engaged citizens can scrutinise and debate governmental actions.

The fundamentals of democracy are assessed [in the first dimension of the EaP Index] by the first EaP Index. In addition, the first [dimension] Index also covers standards of governing that citizens expect from a high-quality democracy. Political representatives should implement effective policies to prevent and prosecute political corruption, and government should be open, responsible and decentralised. These aspects of democratic quality refer to the broad notion of good governance that has led international agencies in their efforts to support public policy reforms. According to an influential definition, good governance is epitomised by predictable, open and enlightened policy-making (that is, transparent processes); a bureaucracy imbued with a professional ethos; an executive arm of government accountable for its actions; a strong

civil society participating in public affairs; and all behaving under the rule of law.<sup>169</sup> This definition shows that good governance is closely related to a democracy ensuring public accountability and public participation involving civil society.

These aspects of democracy and good governance are divided into nine sections as shown in the breakdown table 1. The table provides an overview on the disaggregation of these sections in the questionnaire. Since civil society participation and gender equality are key attributes of good governance and democracy, they are integrated in many subsections and items comprising the EaP Index. A more detailed description of the sections, subsections and their further disaggregation can be found below the table.

## DEMOCRACY AND GOOD GOVERNANCE: BREAKDOWN OF ASPECTS

### 1 DEMOCRACY AND GOOD GOVERNANCE

#### 1.1 Democratic Rights and Elections, including Political Pluralism

- 1.1.1 Legal Framework and its compliance with international standards
- 1.1.2 Organisation of elections
- 1.1.3 Electoral campaigning
- 1.1.4 Electoral Competitiveness

#### 1.2 Human rights and Protection against Torture

- 1.2.1 International Protection of Human Rights
- 1.2.2 National Protection of Civil and Political Rights

#### 1.3 State Accountability

- 1.3.1 Executive accountability to legislature
  - 1.3.1.1 Legislature's influence over executive
  - 1.3.1.2 Legislature's institutional autonomy
  - 1.3.1.3 Legislature's specific powers
  - 1.3.1.4 Legislature's institutional capacity
  - 1.3.1.5 Conditions for opposition
- 1.3.2 Access to Information
- 1.3.3 Transparent budgeting
- 1.3.4 Democratic control over security and law enforcement institutions
  - 1.3.4.1 Internal control
  - 1.3.4.2 Parliamentary oversight
  - 1.3.4.3 Transparency
  - 1.3.4.4 Civil society oversight

#### 1.4 Independent Media

#### 1.5 Freedom of Opinion and Expression, freedom of Assembly and Association

- 1.5.1 Freedom of opinion and expression
- 1.5.2 The Right to Freedom of Assembly
- 1.5.3 The Right to Freedom of Association

**1.6 Independent Judiciary**

- 1.6.1 Appointment, promotion and dismissal of judges
- 1.6.2 Institutional independence
- 1.6.3 Judicial powers
- 1.6.4 Accountability and transparency

**1.7 Equal opportunities and non-discrimination**

- 1.7.1 International and regional HR legal documents

- 1.7.2 Anti-discrimination legislation and policy

**1.8 Fight against corruption**

- 1.8.1 Corruption incidence and the capacity to criminalise and prosecute corruption
- 1.8.2 Internal and external auditing
- 1.8.3 Public procurement

**1.9 Public administration**

- 1.9.1 Policy formulation and co-ordination
- 1.9.2 Local government
- 1.9.3 Impartial and professional civil service
  - 1.9.3.1 Legal framework of civil service management
  - 1.9.3.2 Institutional framework
  - 1.9.3.3 Employment and remuneration
  - 1.9.3.4 Recruitment, promotion, and disciplinary procedures
  - 1.9.3.5 Management of public service quality

*1.1 Democratic rights and elections*

The country has a sound and consistent electoral legal framework that complies with international electoral standards and good practice. Elections are organised according to sound standards by an independent and neutral election administration; the process is transparent, and the election observation is allowed; there are mechanisms to ensure the integrity of elections and effective resolution of electoral disputes. Electoral campaigning is free and fair, with fair candidate registration, equitable access to media and financial resources to all candidates ensured and effective prevention of abuse of administrative resources. Elections are competitive, with provision of genuine political alternatives

*1.2 Human Rights Protection Mechanisms*

Civil and Political Rights are protected both by international and national mechanisms. Conditions in prisons are in compliance with the European Convention on Human Rights, European Court of Human Rights and the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) standards. The country does not hold political prisoners nor carries politically motivated trials. Torture is not used and the right to privacy is effectively respected. The country has ratified major human rights conventions, implemented them, and does not apply the death penalty.

*1.3 State Accountability*

The Executive is accountable to the legislative. The legislature has adequate influence over the executive. It has powers of summons over executive branch officials and can independently investigate the chief executive and the agencies of the executive. It holds powers of oversight of law enforcement ministries and institutions.

The legislature enjoys institutional autonomy. The president does not have the right to dissolve the legislature against his/her will. The legislature can initiate bills in all policy areas and control the resources that finance its own internal operation and provide for the prerequisites of its members. The legislature can change the Constitution without the involvement of any other state agencies, and exercise a veto on any changes to the Constitution. It has the power to amnesty and to approve amnesty. The legislature enjoys adequate institutional capacity. Legislators can count on the support of personal assistants, policy advisers and have a dedicated budget for legislative staff. The legislature can count on: staff with expertise in budgetary and legal oversight and dedicated research capacity. Fair conditions for oppositions are ensured.

Parliamentary committees are composed on the basis of proportional representation and speaking time in plenary sittings is allotted on an equitable basis or according to the respective weight of political groups. The share of bills submitted and adopted by the opposition is

reasonable. Access to information is ensured. A comprehensive Freedom of Information law is in place.

Civil society and media have access, on request, to official documents held by public authorities. Authorities provide the information as requested in a timely manner. Plenary meetings of the legislature and meetings of parliamentary committees open to the public. Transparent budgeting is ensured. The government provides multi-year fiscal forecasts of revenue and expenditure aggregates and of potential deficit financing. The government makes available to the public in-year budget execution reports; year-end financial statements; resources available to primary service units with national coverage in at least two sectors.

Democratic control over security and law enforcement institutions is ensured through internal control mechanisms, parliamentary oversight, transparency and civil society oversight. A dedicated law and internal regulations prescribes clearly the principle of proportionality in applying coercive powers. The use of lethal weapons in crowd control is prohibited and there were no instances of violation of the principle of proportionality during crowd control have been recorded. An internal control and enforcement mechanism is in place to deal with abuse of power by security and law enforcement actors and an internal confidential complaint mechanism exists against illegal and discriminatory actions and orders within security and law enforcement forces. The Parliament has the right to initiate investigations and organise hearings on functioning or/and abuses by security and law enforcement forces and is represented in the National Security and defence Council, whose decisions are subject to parliamentary scrutiny. The Parliament is consulted before the President declares war or launches military operations and is consulted by the President in making appointments to highest ranks of security and armed forces. All political parties, including opposition, represented in the parliamentary oversight bodies. Management institutions regularly report to the Parliament on implementation of policies.

The Ombudsman has competence to undertake investigations and site visit in cases of human rights abuse by security and law enforcement bodies and issues public annual reports. Security and law enforcement institutions (Ministry of Defence, of Interior, Intelligence and Security Agency) have dedicated units responsible for public and media relations. Information on structure, competences, budget

and operational decisions is available on their websites and information on budget expenses for military/armed forces is easily available for citizens. Security and law enforcement institutions practice regular public reporting about their activities, problems and objectives in the field of its competence and publish statistics and cases on human rights violations by law-enforcement and security personnel. Law enforcement ministries and institutions ensure that civil society and media have access, on request, to official documents held by public authorities. Civil society organisations and media representatives can investigate or report on human rights violations and corruption within security and law enforcement bodies without fear of being intimidated or persecuted. Regular consultations are held with civil society organisations on security policies and reform and the format of consultations is institutionalised. Civil society organisations have access to hearings on functioning and abuses by security and law enforcement forces in the standing committees of the Parliament. Civil society is represented in National Preventive Mechanism (under OPCAT) and its members have unrestricted access to places of detention.

#### *1.4 Independent Media*

The government doesn't try to interfere or influence the media. Journalists and media professionals can operate free of intimidation and repercussions. The Internet is freely accessible and uncensored. Defamation and libel are not considered criminal offences. Bloggers and journalists are not prosecuted for defamation or libel on the Internet.

#### *1.5 Freedom of opinion and expression, freedom of assembly and association*

Everyone has the right to freedom of opinion and expression. The state facilitates and protects freedom of opinion and expression. Everyone can freely enjoy the right to freedom of peaceful assembly by organising and participating in assemblies. The state facilitates and protects peaceful assemblies and law enforcement agencies dutifully enforce order while protecting protesters. Everyone can freely establish, join, support by money or voluntary work, or participate in associations with others, including political parties, religious and trade unions.

#### *1.6 Independent Judiciary*

Both legislation and practice ensure that judges are appointed through the transparent process and based on objective criteria, that

their advancement through the judicial system happens on the basis of objective criteria, and that the removal from office of judges or their punishment otherwise happens only for specified official misconduct and through fair procedures. An independent judicial council have decisive influence on decisions on the appointment and career of judges and judges enjoy functional immunity. Senior judges, private interests, or other branches of government do not exert undue influence on judicial decisions. The judiciary can influence the amount of money allocated to it by the legislative and/or executive branches. Judges are appointed for fixed terms that provide a guaranteed tenure.

A judicial organ has the power to determine the ultimate constitutionality of legislation and official acts, and its decisions are enforced. The judiciary has the power to review the legality of administrative acts and to compel the administrative bodies to act where a legal duty to act exists; it has ultimate jurisdiction over all cases concerning civil rights and liberties. Judges have adequate subpoena, contempt, and/or enforcement powers, which are utilised and are not misused, and these powers are respected and supported by other branches of government. Judicial decisions can be reversed only through the judicial appellate process. Judges are assigned to cases using objective methods and can be removed from cases due to conflict of interest. A judicial code of ethics that address values of independence, impartiality, integrity, propriety, equality, competence and diligence, is adopted by judicial self-governing body and is adhered by judges. Courtroom proceedings are open to the public and the media. Judicial decisions are published and made available to the public. There are effective procedures to hold judges accountable for illegal activities.

#### *1.7 Equal opportunities and non-discrimination*

The country has ratified international and regional human rights legal instruments aimed at non-discrimination and protection of equal. A framework law on protection against discrimination in line with EU requirements is in place. The national legislation protecting human rights, equal opportunities and non-discrimination is sound and comprehensive. The list of protected grounds is extensive and open. The national legislation definition of discrimination is extensive and stipulates liability of direct and indirect discrimination, harassment, victimisation and instigation to discrimination. Protection is ensured for natural persons and legal persons alike, as well as by field. The country has ratified international and

regional human rights legal instruments aimed at non-discrimination and protection of equals.

#### *1.8 Fight against corruption*

The country has a legal and institutional anti-corruption infrastructure (framework). It is able to prosecute and sanction corruption. It has an anti-Corruption Strategy and Action Plan, effective conflict of interests and declaration and control of incomes and assets policies, as well as a whistle-blower protection mechanism. A national supreme audit institution or equivalent agency covering the public sector is in place and operating independently from the executive legislative and judicial powers. The head of the audit institution or agency is protected from removal without justification.

The state has government paper and action plan defining a system of Public Internal Financial Control (PIFC), and a central unit manages PIFIC throughout the public sector. Internal financial management and control systems are used in the bodies of public administration in charge of managing public revenues and/or expenditures. Functionally independent internal audit units assess these internal control systems and report to the leading management. The audit agency regularly publishes reports about its audits and the government acts on the findings of the audit agency. The supreme audit agency is also subject to an independent audit. The legal framework that regulates the public procurement is exhaustive, covers all areas of economic activities or clearly defines the exception and sole sources cases. Public procurement is competitive open for foreign competitors, and unsuccessful bidders can instigate a review of procurement procedures. A dedicated body exists to conduct arbitration in the case of public procurement disputes.

Citizens can access public procurement regulations and major public procurement bids. Companies convicted of bribery are prohibited from participating in future procurement bids.

#### *1.9 Public administration*

Ex-ante regulatory impact assessment is mandatory for ordinary legislation and is dutifully carried out. Legislative procedure provides for mandatory consultations with the public at the stage of preparatory and draft laws and consultations are punctually held. The Government issues green papers or ex-ante policy options for public deliberation before starting the work on a draft law and informs the public as to which amendments to draft legislative acts



are being tabled as a result of the consultation process. Public hearings are practised with the participation of civil society organisations and other stakeholders to discuss a draft law in the Parliament. Effective institutional arrangements are in place to provide strategic planning and policy formulation, to support decision-making. Dedicated bodies support the council of ministers, coordinate cross-sectoral policies and provide advice for ministers. Dedicated procedures ensure the consultation of all interested ministries and agencies on policy proposals; the proper processing policies and the evaluation of policy implementation. These procedures are effective. The principle of local self-government recognised in the constitution/domestic legislation. The legislative framework allows for the direct election of the members of

the local councils or assemblies and mayors. The powers and responsibilities of local authorities are prescribed by the constitution or by statute. Local authorities are normally consulted in due time and with appropriate rights in the planning and decision-making process for all matters that concern them directly; they are able to determine their own internal administrative structures, can approve their own budget; are entitled to independently take loans and to abolish or regulate local tax rates. Local authorities have an obligation to hold public consultations before making policies/decisions that concern citizens directly. Elected officials post their schedule publicly and local open government pages are functioning. Meetings are public and agenda and meeting materials and made available in advance.

## POLICY CONVERGENCE

The Eastern Partnership aims at bringing the EU and the Eastern Partnership countries closer together. To achieve this aim, the EU cooperates with EaP countries in four main policy areas: economy, governance, digital connectivity and society. The cooperation focuses on regulatory reforms to align the legislation and policies of EaP countries with the *acquis communautaire*, the body of EU legislation for the Internal Market. This regulatory alignment conceived here as policy convergence which emphasises the policy and political context affecting the transposition and harmonisation of regulations. Policy convergence means that EaP policies become increasingly similar with policies in the EU and its member states. The convergence term not only implies a prolonged process taking its time. It also suggests that EaP governments and political actors are the driving forces of regulatory approximation, by planning, adopting and implementing policies, and by building the political and societal coalitions necessary to enforce and sustain policies. Convergence cannot be imposed by the European Commission or other European institutions, but requires domestic effort and ownership. Policy convergence is expected to facilitate deeper economic integration with the EU and subsequent economic development in EaP countries. These effects are viewed as leading to the upgrading of bilateral political relations. This perspective does not imply a future EU membership, but does not exclude it either.

Of the six EaP countries, Georgia, Moldova and Ukraine have the closest relationships with the EU as they have concluded Association Agreements (AA). Recognising the European choices and

aspirations of the three EaP countries, the AAs envisage a Deep and Comprehensive Free Trade Area (DCFTA) and provide a detailed roadmap for economic modernisation and regulatory alignment. Armenia and the EU have agreed a Comprehensive and Enhanced Partnership Agreement (CEPA) that facilitates cooperation. While relations between Azerbaijan and the EU are still based on the Partnership and Cooperation Agreements (PCA) in force since 1999, a similar Agreement was signed with Belarus, but has not been ratified by the EU. Following the fraudulent presidential elections of August 2020 and subsequent violent repression of civil society in Belarus, the EU has imposed restrictive measures against the country's political leadership.

However, strained or stagnating relations with the EU do not exclude policy convergence in Belarus or Azerbaijan. Both countries participate in numerous pan-European and international agreements and organisations that coordinate regulatory convergence in specific policy areas. Trade integration and economic globalisation provide strong incentives for policy convergence even if governments do not aspire to EU association and a full-scale adoption of the *acquis*.

The EaP Index focuses on policy convergence in five key areas shown in breakdown table 2: Market Economy, including digital economy; Freedom, Security and Justice; energy policy; environmental and climate policies; and transport policy. These issue areas have become priorities for cooperation in the EaP and are covered by the main policy objectives outlined



by the European Commission in its joint communication on “The Eastern Partnership policy beyond 2020: Reinforcing Resilience – an Eastern Partnership that delivers for all” (JOIN (2020) 7 final, Brussels, 18 March 2020).

Market economy comprises numerous regulations and areas of technical cooperation that ensure free trade or the liberalisation and facilitation of trade. Freedom, Security and Justice refer to joint policies that protect the visa-free regimes and visa facilitation agreements regulating travel between the EU and the EaP countries. These policies address

irregular migration, including the readmission and return of EaP nationals, as well as border management and police cooperation to fight against organised crime. Energy, environmental and climate policies are aimed at increasing the environmental resilience and energy efficiency of EaP countries. Energy security and less dependence on foreign energy supplies are key targets guiding the restructuring of the energy sector in EaP countries. As components of connectivity within EaP, energy, trans-European transport networks are priority areas of technical cooperation and facilitate deeper economic integration.

## POLICY CONVERGENCE: BREAKDOWN OF ASPECTS

### 2 POLICY CONVERGENCE

#### 2.1 Market Economy

- 2.1.1 Market Economy
  - 2.1.1.1 Market entry and exit
  - 2.1.1.2 State aid
  - 2.1.1.3 Private property
  - 2.1.1.4 Intellectual property rights (IPRs)
- 2.1.2 Trade policy convergence
  - 2.1.2.1 Technical Barriers to Trade (TBT)
  - 2.1.2.2 Sanitary and phytosanitary measures
  - 2.1.2.3 Customs and trade facilitation
- 2.1.3 Sectoral cooperation
  - 2.1.3.1 Financial services and movement of capital
  - 2.1.3.2 Digital Services

#### 2.2 Freedom, Security and Justice

- 2.2.1 Visa dialogue
- 2.2.2 Irregular immigration, including readmission
- 2.2.3 Border management
- 2.2.4 Security and combatting organised crime

#### 2.3 Energy Policy

- 2.3.1 Institutional framework of energy market
- 2.3.2 Energy efficiency
- 2.3.3 Renewable Energy
- 2.3.4 Energy Security

#### 2.4 Environment and climate policy

- 2.4.1 Environmental policy
- 2.4.2 Climate Change

#### 2.5 Transport Policy

##### 2.1 Market Economy

The country has a functioning market economy, with appropriate *market entry and exit*, *state aid*, *private property* and *Intellectual property rights* (IPRs) protection. The country has a sound legislation for the enforcement of market

competition and an independent and competent national authority in the field of protection of economic competition with powers to supervise provision of aid granted by state to companies. This body can intervene in all economic areas and industries and ensures transparency publishing all its decisions. The OECD approach

to products market regulation is used to identify the restrictions to competition and independent regulators for sectors prone to monopolisation such as energy, utilities, communication exist. An open and publicly accessible online inventory (register) of state aid is prepared and regularly maintained by national authorities. *Private property* is protected by the Constitution, both citizens and non-citizens are allowed to own agricultural and non-agricultural land in the country. On *Intellectual property rights (IPRs)*, the country adopted the Protocol on modification of the Trade Related Aspects on Intellectual Property Rights (WTO TRIPS) and the legislation protecting copyright, patents, industrial design, geographical indications, trademarks and other similar intellectual property rights is aligned with international and European norms. EU geographic indications are protected. The country has authorities responsible for IPRs oversight and implements a mechanism of intellectual property protection at the border.

The country's trade policy is converging towards EU and international norms. In terms of *Technical Barriers to Trade (TBT)*, the country participates in WTO TBT and ISO, is affiliated with CEN and CENELEC and represented in ETSI. Its National Accreditation Body is an associate member of the European Accreditation (EA) and the country signed all MLA&BLA. The application of standards (elaborated for the purpose of standardisation of industrial goods) on products is voluntary. The national legislations on general product safety, on liability for defective products, and market surveillance is harmonised with the EU legislation. The share of national standards harmonised with European or international standards is high, as well as the share of the EU harmonised standards adopted in the country as national standards. The country has the ACAA or a mutual recognition agreement with the EU. Regarding *sanitary and phytosanitary measures*, the country participates WTO SPS. National producers are legally obliged to implement the HACCP (Hazard Analysis and Critical Control Points) system and the national legislation allows direct application of international standards i.e. Codex Alimentarius as a basis of assessment of compliance with national requirements. The country implements strategies of food safety aimed to harmonise its legislation with the EU and can export to the EU a significant number of categories of animal and plant products.

A system of identification and traceability for animals is implemented as well as a system of alert. Sectoral cooperation in terms of *financial services, movement of capital and digital services* is

ensured. On *financial services*, the country has independent national authorities, i.e., Central Bank, Commission or Board, responsible for regulation of financial services. The country has embedded in the national regulations and implements the Basel regulations I, II, III, and IV. IBAN is used and the country is a member of the Single Euro Payments Area (SEPA).

The country adopted a strategy or a roadmap, which provides for the implementation of the International Association of Insurance Supervisors' 'Insurance Core Principles' and of the International Organisation of Securities Commissions' "Objectives and Principles of Securities Regulation". Citizens are allowed to open banking accounts and invest abroad without licensing. There are no administrative procedures or prohibitions for the movement of capital or of payments. When it comes to *digital services*, the country is aligning with the EU Digital Union legislation, having adopted legislation that is harmonised with EU norms on electronic trade, personal data protection, electronic signatures and electronic identity cards. An independent telecommunications regulatory authority has been established and the country implements universal service in the telecommunications sector. An agreement with the EU on mutual recognition of qualified trust services has been concluded and the country is a member of the EU digital union.

## 2.2. Freedom, Security and Justice

The country is implementing a visa dialogue with the European Union, with a Visa Liberalisation Action Plan in place and Readmission Agreement. There is a framework document setting up integrated border management (IBM) as a basis for national border management and the country is has border points administered commonly with neighbouring countries. The country has ratified the main conventions on the prevention and fight against organised crime, human trafficking, and terrorism.

## 2.3. Energy: Legislation Convergence and Energy Policy

The country has a solid institutional framework for the energy market. The Energy Sector Regulator is independent from Government in decision-making and equipped with all necessary functions. The tariffs policy is independent from the Government in the gas and electricity sectors and the regulator on energy market implementing transparency procedures. The level of competition on gas and electricity

markets is high. The ownership in energy market is unbundled in accordance with the EU 3-rd energy package and consumers can choose suppliers in gas and electricity retail markets. Suppliers can access the infrastructure on competitive basis. The country has adopted the Third Energy Package legislation and has a good level of interconnection with the EU, with fully operational electricity and gas interconnectors. The country has adopted a National Energy Efficiency Action Plan (NEEAP), a National Renewable Energy Action Plan (NREAP) and Energy Strategy/Energy Security Strategy. It is effectively implementing energy efficiency and RES-related legislation. Access to electricity is widely ensured. The percentage of energy import dependence is low (<20%), the share of RES in the final energy consumption is >30%.

#### *2.4 Environment and Climate Policy*

The country has adopted a Strategy on State environmental policy adopted and the procedure of stakeholder involvement was in line with Aarhus Convention Principles. The strategy is comprehensive and has measurable objectives. Environmental policy is integrated in other sectors of the economy. Sectoral environmental Strategies on air, water quality, waste and resource management, nature protection and industrial pollution and chemicals have been adopted by the Parliament / Government as well as the main horizontal instruments. Laws on Strategic Environmental Assessment (SEA) and Environmental Impact Assessment (EIA) have been adopted. The country has ratified the main

environmental conventions and produces yearly Multilateral Environmental Agreements (MEAs) annual reports. Legislation on prevention and control of invasive alien species is in place as well as a control of legality of trade in forestry.

On climate change, the country has ratified the Paris Agreement. NDC and Climate Action Plans are adopted, as well as a National Strategy or National Adaptation Plan of Actions (NAPA) and sectoral strategies on climate change adaptation. The procedure of stakeholder involvement for the NDC and CAP, and for sectoral strategies on climate change adaptation were in line with Aarhus Convention principles. The Ministry of Environment is a separate department or separate agency dealing with climate change. A cross-sectoral coordination body dealing with climate change is established. A MRV system on climate change is in place at national level.

#### *2.5 Transport: Regulatory Policy*

The country has a solid regulatory framework in the transport sector, allowing ownership or management of transport infrastructure by private entities. Bundled monopolies are forbidden by law and natural monopolies are fully unbundled. The legal framework provides for the establishment, functioning and financing of an independent transport regulator, of an independent transport incident investigating body. The country is implementing a strategy for transport infrastructure modernisation (public and private investments), with regular reports published.

## SUSTAINABLE DEVELOPMENT

The EU and the EaP countries are committed to implementing the 2030 Agenda for Sustainable Development that was adopted by the United Nations in 2015. This Agenda comprises 17 Sustainable Development Goals (SDGs) that are specified in 169 targets and measured by 231 unique indicators. This broad agenda is intended to balance the economic, social and environmental dimensions of sustainable development. The SDGs may be clustered under the five terms people, planet, prosperity, peace and partnership (for sustainable development).

The implementation of the goals is monitored within the UN system and by national governments through their voluntary national reviews. Moreover, individual SDGs, targets and indicators overlap with aspects measured by the first two EaP Indices.

The third main EaP Index assesses to what extent the EaP countries have converged with EU member states on key indicators of sustainable development.

## SUSTAINABLE DEVELOPMENT: BREAKDOWN OF ASPECTS

### 3 SUSTAINABLE DEVELOPMENT

#### 3.1 People

- 3.1.1 Poverty prevention
- 3.1.2 Food security, improved nutrition and sustainable agriculture
- 3.1.3 Healthy lives and well-being
- 3.1.4 Inclusive and equitable quality education and lifelong learning opportunities
- 3.1.5 Gender equality, empowerment of women / girls

#### 3.2 Planet

- 3.2.1 Sustainable water management and sanitation for all
- 3.2.2 Sustainable consumption and production
- 3.2.3 Climate change and its impacts
- 3.2.4 Conservation and sustainable use of marine and terrestrial ecosystems, sustainable forest management, reversion of land degradation, prevention of biodiversity loss (SDGs 14+15)

#### 3.3 Prosperity

- 3.3.1 Sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all
- 3.3.2 Access to affordable, reliable, sustainable and modern energy for all
- 3.3.3 Resilient infrastructure, inclusive and sustainable industrialisation and innovation
- 3.3.4 Reduction of inequality
- 3.3.5 Inclusive, safe, resilient and sustainable municipalities

#### 3.4 Peace and Partnership

- 3.4.1 Peaceful, inclusive and just societies; access to justice for all, effective, accountable and inclusive institutions
- 3.4.2 Global partnership for sustainable development

## MEASUREMENT

The Eastern Partnership Index is a composite indicator that summarises detailed information from existing data sources and from country experts who are surveyed by the EaP Index team. This combination of available data sets and newly conducted expert assessments draws on the best existing knowledge and improves it by a focused, systematic data-collection that benefits from the unique in-country insights and local knowledge resources available to the EaP Civil Society Forum. The measurement is conducted annually so that time series will be created for the tracking of countries' development. This section explains how the measurement is organised.

## QUESTIONNAIRE DESIGN AND DATA COLLECTION

To achieve a valid measurement, the conceptual framework is defined more precisely by dividing the main concepts into specific aspects, labelled as sections and subsections. Most subsections are still very broad and therefore cannot be assessed directly. Such assessments would be biased by varying views about the precise meaning of subsections or by different assumptions about how to weight aspects. It is therefore necessary to operationalise the framework into sufficiently detailed items that are less prone to subjective interpretations and can be captured well by individual indicators. This operationalisation is provided in the annex to this methodology and in the questionnaire.

The combination of fact-based indicators and expert assessments leverages the advantages of both types of data. Indicators based on directly observable facts,<sup>170</sup> such as the share of female deputies in Parliament, are very reliable measures since their meaning is intuitively evident and they are easy to verify. However, they capture only specific aspects of a complex reality and may not correctly indicate the level of gender equality or the quality of democracy in a country. Indicators based on judgements by experts are sensitive to the context of specific facts, such as the informal arrangements privileging certain groups in an apparently gender-balanced Parliament. While they are often more valid measures of a concept, judgemental indicators rely on subjective interpretations. The measurement design uses fact-based indicators wherever possible, but complements them with contextualised judgements if necessary.

The expert survey avoids broad judgement questions in order to minimise subjective bias. Rather, specific and factual questions are asked, following a methodological strategy pioneered by the World Bank's Doing Business surveys. Many survey questions envisage 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 document the basis and process of their assessment with references.

The survey is filled by local experts and overseen by sectoral co-ordinators who supervise and assist the data collection and evaluation. Firstly, local experts with an in-depth sectoral knowledge of EaP countries evaluate the situation in their country of expertise on the basis of the questionnaire. These experts and the sectoral co-ordinators co-operate to ensure cross-nationally consistent assessments. Secondly, the sectoral co-ordinators review the scores 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 co-ordinators draft narrative reports comparing the assessments for each country and (across all countries) sector. The Index team alongside contributing experts also holds focus groups. Discussions focused on sectoral reports to validate findings and scores. Finally, the data scores and narrative reports are reviewed and edited by the Index team.

## INDICATORS AND CODING

The selection of indicators for the EaP Indices has been guided by several quality criteria. All indicators used for measurement must appropriately estimate or describe the concepts that are to be measured. Indicators should be accepted as relevant by their users, that is, they should serve to address the purposes for which they are used. Data should be regularly collected, easily interpretable and coherent across countries, over time and within the set of Indices/ indicators.<sup>171</sup> The annual editions of the Indices can contain updates and revisions of indicators, including retrospective corrections, which contribute to improve the validity of the measurement.

<sup>170</sup> Skaaning, S.-E. (2018) *Different Types of Data and the Validity of Democracy Measures Politics and Governance* 6 (1): 105-16.

<sup>171</sup> OECD (2012) *Quality Framework and Guidelines for OECD Statistical Activities* STD/QFS(2011)1. Paris: OECD, <http://www.oecd.org/statistics/qualityframework> Accessed 8 November 2021.



The expert assessments need to be coded as numerical scores in order to integrate them into composite indicators. Questions to be answered with “Yes” or “No” by the country experts are coded 1 = yes or 0 = no. Many questions also have intermediate levels (0.25, 0.5, 0.75 etc.) that allow to make graded, more nuanced assessments. Higher scores denote more positive assessments with regard to the concepts measured by the EaP Indices – democracy, policy convergence, sustainable development and their aspects.

Indicators from external data sources have different scales and/or units and thus need to be made comparable. Because the expert assessments are coded on a scale ranging from 0 to 1, this scale is used to standardise these indicators. In other words, the original scores of the source indicator are mapped to a 0-1 scale, using the following simple formula:

$$y = \frac{x - x_{\min}}{x_{\max} - x_{\min}}$$

where  $x$  refers to the value of the source indicator;  $y$  is the corresponding score on the 0-1 scale;  $x_{\max}$  and  $x_{\min}$  are the endpoints of the source scale, also called “benchmarks”. This so-called ‘linear transformation’ ensures that the fact-based indicators from external sources can be summarised and aggregated with the scores from the expert assessments. The benchmarks for the external indicators have been determined on the basis of two considerations.

If intuitively plausible, uncontroversial benchmarks are available, these are used to define the minima and maxima of the original scale. For example, indicators measured as percentages are often plausibly bounded by 0 and 100 per cent. However, such boundary values do not always make sense, and many indicators lack clear benchmarks. These indicators are standardised by taking the lowest value of an EaP country in a baseline year as the minimum. The maximum is defined by the average value of EU member states for the given indicator and a given year. If no values are available for all EU member states, several or individual EU member states are selected to set benchmarks. The benchmarks are fixed over time so as to enable comparisons between countries over different years.

The external source indicators do not always feature values for all EaP countries. Missing values are imputed with values from previous years if such values exist. If these values are also missing, the average of the EaP countries with available values was used or the indicator was not included in the aggregation.

## AGGREGATION

The main EaP Indices summarise a wealth of detailed evidence in few scores. Since their compact and concise format implies a loss of important information contained in individual items and assessments, the aggregation has to be carefully considered and justified. Any aggregation method necessitates decisions about the relative weight of items that need to be explained.

The EaP Indices are based on a conceptual framework that establishes a hierarchy of concepts, descending from general and abstract concepts – democracy and good governance, policy convergence and sustainable development – to specific, tangible and more measurable concepts such as energy efficiency. The conceptual framework groups these concepts within higher-level concepts, places concepts at the same level and distinguishes them from other concepts. These structuring and placement decisions entail assumptions about the salience of aspects (lower-level concepts) for the realisation of the higher-level concepts measured by the Indices.

Reflecting this conceptual framework, the EaP Indices assign equal weights to those aspects of a concept that are placed on the same level of the conceptual hierarchy. The main rationale for this weighting principle is that aspects have been classified on the same level because they are considered to be as important as the other aspects on that level. Thus, the equal weighting of aspects is backed by the assumption that these aspects have equal conceptual status. One consequence of this assumption is to refrain from distinguishing between essential and auxiliary aspects. While all aspects should be present for the full realisation of the aggregate concept, a single dysfunctional aspect does not necessarily preclude its realisation. Put differently, equal weighting suggests considering the components of a concept as partially substitutable.

Partial substitutability also leads to a method of aggregation that allows for some balancing between items, or, more generally, aspects forming aggregate concepts. An arithmetical aggregation of aspects is, strictly speaking, possible only if these are measured on an interval level, that is, if the scores 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, there is only information about the ordering of scores, not about the distances between scores.

For example, the distance between a yes and a no for the question regarding political parties' equitable access to state-owned media is not known. 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 require aggregation techniques that use the ranks of countries rather than the distances between them, that is, an aggregation by calculating the median rather than the arithmetic mean. This would, however, imply omitting the more detailed information contained by the numerical items. To use this information and to put more emphasis on larger differences between countries, the quasi-interval level scores are constructed 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.

Since the number of aspects representing aggregate concepts differs, and since the EaP Index applies equal weighting, aggregate scores are standardised by dividing them through the number of aspects. Thus, the aggregate scores range between 1 and 0 and express the share of items evaluated positively in terms of the aggregate concept. The resulting proportions allow a range of aggregation techniques at higher levels of aggregation. The most important methods are multiplication and addition. Multiplication assigns more weight to individual aspects, emphasising the necessity of aspects for a concept; in contrast, addition facilitates the compensation of weaker scores on some aspects by stronger scores on other aspects, emphasising the substitutability of aspects for a concept.

The EaP Index applies an additive aggregation of aspects because this approach fits to the method used on the item level, reflects the substitutability of aspects, and is less sensitive with regard to deviating values on individual aspects. To standardise the aggregate sums and ensure equal weighting, arithmetical means are calculated.

# LIST OF CONTRIBUTING EXPERTS

## ARMENIA

Abraham Artashesyan  
Mari Chakryan  
Karen Chilingaryan  
Ara Ghazaryan  
Nazeli Ghazaryan  
Hasmik Harutyunyan  
Varuzhan Hochtanyan  
Boris Navasardian  
Artashes Sargsyan  
Grigor Yeritsyan  
Anonymous expert

## AZERBAIJAN

Arzu Abdullayeva  
Gubad Ibadoghlu  
Laman Yusifova  
Two anonymous experts

## BELARUS

Due to ongoing repression in Belarus, all contributing experts were listed anonymously.

## GEORGIA

Nino Danelia  
Mari Gabedava  
Kakha Gogolashvili  
Kornely Kakachia  
Tamar Khidasheli  
Gela Kvashilava  
Giorgi Mukhligulishvili  
Tamar Pataraia

## MOLDOVA

Veaceslav Berbeca  
Lilia Carasciuc  
Victor Gotisan  
Ion Gumene  
Ion Guzun  
Andrei Isac  
Georgeta Mincu  
Elena Prohntitchi  
Sergiu Robu  
Iulian Rusu  
Oleg Tofilat

## UKRAINE

Olga Aivazovska  
Nestor Barchuk  
Sergiy Gerasymchuk  
Andriy Kulakov  
Volodymyr Kuprii  
Tamara Malkova  
Veronika Movchan  
Hanna Shelest  
Volodymyr Yavorskyy  
Mykhailo Zhernakov  
Two anonymous experts





## EASTERN PARTNERSHIP CIVIL SOCIETY FORUM

The Eastern Partnership Civil Society Forum (EaP CSF) is a unique multi-layered regional civil society platform aimed at promoting European integration, facilitating reforms and democratic transformations in the six Eastern Partnership countries - Armenia, Azerbaijan, Belarus, Georgia, Moldova and Ukraine. Serving as the civil society and people-to-people dimension of the Eastern Partnership, the EaP CSF strives to strengthen civil society in the region, boost pluralism in public discourse and policy making by promoting participatory democracy and fundamental freedoms. The EaP CSF is a non-partisan bona fide non-governmental organisation.

[www.eap-csf.eu](http://www.eap-csf.eu)



## EUROPEAN UNION

The European Union is a unique economic and political union between 27 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)

This publication was produced with the support of the European Union. The content of this publication does not reflect the official opinion of the European Union. Responsibility for the information and views expressed therein lies entirely with the authors.







**EASTERN PARTNERSHIP  
CIVIL SOCIETY FORUM**



Funded by  
the European Union