

ONE YEAR OF COVID-19



European Center for
Not-for-Profit Law

Emergency Measures and Civic Freedoms in the Eastern Partnership region

The Covid-19 related government measures in the Eastern Partnership region (EaP) had significant impact over civic freedoms. We provide a brief regional overview to the governmental legal responses throughout the pandemic and their enforcement in practice since March 2020. The brief is based on the data and analysis from different European Center for Not-for-Profit Law Stichting (ECNL) sources, including the [CSO Meter Regional Overview 2020](#), then the report on [COVID-19 and civic freedoms in Georgia](#) and other the [ECNL/ICNL Covid-19 Civic Freedoms tracker](#) and ECNL's [work](#) on the right to free assembly.

From state of emergency to special quarantine: Broad authority to restrict civic freedoms without oversight

Armenia, Georgia, and Moldova introduced a state of emergency and sent official notification for [derogation](#) from the European Convention on Human Rights (ECHR) for, among others, freedom of assembly and freedom of movement at the beginning of the pandemic. Armenia and Moldova, after several extensions, have withdrawn the derogations by September and May 2020, respectively. Moldova has issued another notification for derogation since April 2021, while the one of Georgia is still in force¹. Ukraine and Azerbaijan in March 2020 introduced emergency situation and special quarantine, respectively. Belarus is the only country that did not introduce any special regime.

As of March 2021, all the countries (except for Belarus and Moldova) are under special quarantine regime. As a result, the executive authorities have acquired more power to decide on imposing limitations on basic freedoms. For example, in [Georgia](#), the new amendments to the Law on Public Health gave the government the power to restrict basic rights without parliamentary oversight².

¹ As of April 1, 2021.

² Confirmed by a decision by the Constitutional court in February 2021.



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Types of restrictions

All Eastern Partnership countries introduced diverse types of limitations to freedom of assembly and freedom of movement. In addition, in some of the countries there were limitations on other important rights such as right to privacy, freedom of expression, access to information and the right to participation.

Right to public participation

The government measures, which aimed for urgent and expert tackling of the pandemic, have increased powers of the executive authorities, and limited the access to existing avenues for public participation (e.g., working groups for developing laws/policies, meetings with public officials, etc.). This meant very few or no opportunities for CSOs to influence the restrictions imposed on civic freedoms. In [Ukraine](#), acts were submitted to the Parliament without being on the legislative agenda of the Council of Ministers. In addition, journalists and CSOs were not allowed into the Parliament in the initial stages of the pandemic. In [Moldova](#), the Parliament's committee meetings were not broadcasted live.

Right to free assembly

Freedom of assembly has been severely restricted across the region. The limitations differ from one country to another. The number of people permitted to assemble varied from 3 to up to 50 people. Disproportionate fines were introduced for not respecting the new rules e.g., in Moldova the minimal fine was over 1.000 EUR. The fine was later declared unconstitutional. In [Georgia](#), even though protests are not limited, the curfew and the restrictions over freedom of movement impacted the right to free assembly. In the latest protests, the authorities fined protesters for violating the curfew with the protest action. The fines were [disproportionately high](#) (from 500 EUR for physical persons, to 2.000 EUR for legal persons) and their repetition leads to criminal liability.

Despite the limitations, there were mass protests in all the countries. In addition, there was an increase in organizing activities, and using digital technology to both assist the organization of assemblies on the ground, or purely hold online assemblies. For e.g., in [Moldova](#) an online flash mob on Facebook took place on the World Press Freedom Day and in [Belarus](#) two annual marches in Minsk that were cancelled (Freedom Day on March 25 and "Chernobyl's Road" on April 26) took place online. Also, the first online rally in Belarus was organized on May 1 by the former chairman of the United Civil Party, Anatoly Lyabedzka (with over 10.000 views).

Right to access to and spread of information

In several countries, measures that [limit the access to and spread](#) of information were adopted. Such measures inhibited people to access valuable information related to how the Government is handling the emergency situation. In addition, there were also limitations (including over journalists) on sharing information that might be of use to the citizens.

- In Azerbaijan, the Government amended the Law on Information, Informatization and Protection of Information and obliged users and owners

of information resources on the internet “not to place false information”, an overly-broad limitation that goes beyond the coronavirus situation.

- In Moldova, the time to receive response to a request on access to information was prolonged by the Commission for Exceptional Situations from 15 to 45 working days during the pandemic.
- In Armenia, at the beginning of the emergency, the Government placed a requirement to cite official sources on coronavirus infections which was later removed.
- In Georgia, the access to information was suspended.
- In Belarus, the public could not access information about the infection rates.

Right to privacy

The Governments in their efforts to protect individuals and tackle the spread of the virus adopted and applied responses that [negatively affected](#) the privacy of the individuals. Three countries (Armenia, Georgia, and Ukraine) introduced contact tracing apps, and in Azerbaijan a permission system for leaving the place of residence was put in place. In addition, the Government in Armenia adopted legal measures that allow authorities to collect information on the location and calls of the users of electronic communication services to trace the contacts (to identify the location, movements, and the contact circles) of potentially infected people during the period of the state of emergency. In Belarus, in practice the authorities were checking the contents of smartphones and threatening people to reveal their passwords. In case they found photos from rallies or subscriptions to opposition Telegram channels, these were used as grounds for arrest.

Courts to safeguard civic freedoms

Restrictions and their implementation in practice were successfully challenged before court. In both Moldova and Georgia, the high fines imposed for disrespecting Covid-19 measures were challenged in court.

In [Moldova](#) the Constitutional Court declared the minimal amount of the fine for non-compliance with the anti-epidemic measures (roughly 1.160 EUR) as unconstitutional. As a result, all the fines that had been applied in practice during the pandemic have been declared as unconstitutional.

In [Georgia](#), in July 2020, the [Human Rights Center](#) appealed the unjust imposition of fines on seven persons to Gori District Court in city of Gori in Georgia for violating the social distancing measures. The court requested that the police department annuls the fines. Regarding the [new amendments](#) to the Law on Public Health, made on February 11, 2021, the Constitutional Court found that delegating authority to the Government to restrict labour rights were unconstitutional. As for other rights, the Court concluded that the authority delegated to the government to restrict freedom of movement, right to property and right to peaceful assembly did not concern the issues of fundamental principles for social, economic, legal, and political directions and were in line with the Constitution.

Over the coming months the ECNL and the [CSO Meter partners](#) will continue to monitor and analyse the emerging issues of the CSO environment in the EaP region.