



ADDRESSING TRENDS ACHIEVING IMPACT

The European Center for Not-for-Profit Law



Activity **2016**
Report **2017**

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WE BELIEVE IN MAKING A DIFFERENCE:

This is how we do it

Dear friends,

Europe has long been viewed as an example - a place where civic freedoms were ensured and civil society could thrive. And while many countries still nurture this environment, in many others civil society is at a cross-road - people's fundamental rights are challenged and civic freedoms are under threat.

Since 2016, we have documented more than 40 restrictive initiatives in 19 countries of Europe that limit the policy and legal environment in which civil society organisations operate. The tone and tenor of each restriction may vary by country, but their purposes are largely the same: to undermine people's ability to organise, assemble and advocate for change.

In this context, our mission to protect and promote civic space has become more challenging - but also more important than ever. In an era where governments regularly borrow each other's tactics, we believe it is important not only for democratic governments and multilaterals to share good practices, but also for civil society to collaborate in response and rely on strong legal arguments. This report documents how we met this challenge in 2016-17.

Our position, as a regional organisation with comparative expertise, has made us well situated to facilitate this process. In countries where restrictions emerge, for example, we are working with local CSOs to connect them with others facing similar issues, to build solid legal arguments and to formulate response strategies (see page 9). We help local organisations and authorities to connect with multilaterals, and we also provide expertise to the European Union, the Council of Europe, the United Nations and others to strengthen regional and global standards and protect civic freedoms.

At the same time we are pleased to report that our work has also brought tangible reforms and progressive change. In Cyprus, ECNL's and our partners' long-term engagement paid off with the passage of a much-improved Law on Associations, which we had been working on since 2007 (page 8). In Moldova, we helped create a new way for people to fund CSOs, via a designation of their taxes (page 7). We also helped the Financial Action Task Force to strengthen protections for civil society in relation to counter-terrorism financing efforts. We researched new trends and cutting edge issues and are working on guidance to help civil society mobilise different resources (page 10).

We feel empowered and grateful to be able to work with our partners from all sectors, our board and our donors to create better societies. The impact described in this report would not have been possible without their dedication, skill, and commitment.

We look forward to continuing to work together and finding new opportunities to make a positive change and reverse restrictive trends. An enabling space for civic freedoms is needed more than ever, and we are confident that together we can shape the progressive Europe we want to live in.

The ECNL team



BY THE NUMBERS

ECNL's work in 2016-2017



16,000

Number of Moldovan taxpayers who designated 2% of their tax to a civil society organisation through a newly adopted designation mechanism designed with the support of ECNL - [page 7](#)



1,038

Number of people who follow our Twitter account - @enablingNGOlaw - as of April 20, 2018. [Join them now!](#)



414

Number of people who have visited our website to read the summary briefer on the Council of Europe's Guidelines for civil participation in political decision-making - [page 12](#)



143

Number of civil society organisations and networks worldwide who joined together and improved global counter-terrorism financing rules on CSOs - [page 11](#)



21

Number of the Treaty of the European Union article which states that the Union's action on the international scene must be guided by the principles of democracy, the rule of law, the universality and indivisibility of human rights and fundamental freedoms - [page 13](#)



16

Number of countries studied in detail in our 2017 report on fundraising regulation and self-regulation in Europe - [page 10](#)



14

Number of countries where we engaged with partners to push back or soften initiatives that would restrict fundamental freedoms. Between 2016 and 2017 we registered such initiatives in 19 countries of Europe- [page 9](#)



11

Number of countries in which our network continuously monitors laws and practices related to the right to freedom of assembly and engages for reform - [page 6](#)



10

Number of years we committed to work with the government and civil society in Cyprus for an improved Law on Associations, which was enacted in May 2017 - [page 8](#)

LOOKING BACK

2016 and 2017 in pictures



We need to rely on participation and go to local communities, not just the usual suspects, said Katerina Hadzi-Miceva Evans at the launch of Community of Democracies' Democracy and Security Dialogue initiative. ECNL's Executive Director spoke alongside Dr. Madeleine Albright and Maria Leissner, Secretary General of the CoD.



Taxpayers in Moldova can designate 2% of their paid income tax to CSOs from 2017 onwards. In September 2016, we convened international experts from Central and Eastern Europe to share practical experiences on the implementation of the process and to help CSOs utilise this additional source of income. See story, page 7.



Recent years have seen protests increase in both number and intensity in the Western Balkan and Eastern Partnership countries. We work with local partners from the region to monitor local laws and practices and advocate for positive reform. See story, page 6.



With our study comparing the legal framework for fundraising in 16 countries from all regions of Europe, we launched a dialogue on how regulation and self-regulation of fundraising can support CSOs. The topic is timely, since financial sustainability is one of the most serious challenges facing CSOs today. See story, page 10.

TRACKING THE HEALTH OF ASSEMBLY RIGHTS – AND ADVOCATING FOR IMPROVEMENTS

THE THREAT:

Increased restrictions on the right to peaceful assembly in the Western Balkan and Eastern Partnership regions

OUR RESPONSE:

ECNL established an informal network of organisations from Albania, Armenia, Belarus, Bosnia and Herzegovina, Croatia, Kosovo, Macedonia, Moldova, Montenegro, Serbia and Ukraine to monitor local laws and practices and advocate for positive reform



[#right2freeassembly](https://twitter.com/right2freeassembly)

Recent years have seen protests increase in both number and intensity in the Western Balkan and Eastern Partnership regions. At the same time, there is a disturbing region-wide trend toward more restrictions on the right to peaceful assembly.

As these trends evolved, it became increasingly clear to ECNL that there was a general lack of awareness in both regions of the legal framework and international standards meant to protect assembly rights. In 2016, we set out to change that.

Our first step was to create a baseline for researching trends and understanding where reform was needed. To do this, we designed a pilot project and helped our partners in the Western Balkans complete the region's first set of comprehensive country reports on the legal framework for the right to peaceful assembly and how the laws are applied in practice. We also produced user-friendly assembly flashcards to help local partners engage in in-country advocacy to initiate change.

To ensure that systematic monitoring of local laws and their implementation continued, we organised targeted trainings for an enlarged group of partners, with a special focus on problematic issues highlighted in the reports, such as policing. To widen the perspective we also invited experts from Albania, Armenia, Belarus, Kosovo and Moldova. This process of convening partners from multiple regions also had a bonus: it created an informal network of CSOs, allowing for exchanges of cross-border experiences and learning.

The initial results show that the project has been useful in helping our partners monitor protests, report challenges and engage in the legal reform process. In Montenegro, for example, our partner Institute Alternative relied on their recent research findings to submit comments on the country's 2016 draft Law on Public Assemblies. The law that was ultimately adopted was more enabling than the initial draft and incorporated their comments. Together with local CSOs, they remain active in calling for further reforms.

Learn more:

- Country reports on freedom of assembly in 2016 and 2017; [link](#)
- Regional report: Defending the Right to Free Assembly – Assess and Act; [link](#)
- Flashcards on freedom of assembly; [link](#)

ESTABLISHING A NEW WAY FOR MOLDOVANS TO SUPPORT THE CSO OF THEIR CHOICE

THE THREAT:

80% of funding for Moldovan civil society comes from foreign sources, which is not sustainable in the long run

OUR IMPACT:

300 CSOs received funding from 16,000 people through a new legal mechanism designed with ECNL's expertise

Financial sustainability is a key challenge for the non-profit sector in Moldova, where more than 80% of funding comes from foreign sources. Watchdog and human rights organisations in particular struggle to access domestic funding.

ECNL has been working to improve this since 2009, and helped achieve a breakthrough in 2016 with the launch of a new way for Moldovans to contribute to local causes: the so-called "2% mechanism." The new plan offers a simple and painless way for any taxpayer to allocate 2% of their paid income tax to a CSO or religious organisation of their choice.

In the program's first year, nearly 300 CSOs were supported by more than 16,000 people.

The 2% mechanism stimulates philanthropy and provides an opportunity for the public to make contact with the civil society sector, said Anatol Beleac, Chief of Party for Moldova Partnerships for Sustainable Civil Society. After people learn more about the CSOs' work, they are more likely to support those CSOs in the future. In the long run, this can improve good governance and public trust in the sector.

ECNL has been supporting the development of the 2% mechanism in Moldova by sharing experiences from other countries, lending its expertise in the legal drafting process, organising study visits and facilitating dialogue for state officials and CSOs. We now support our local partner to promote awareness of the mechanism so that local CSOs can make the most of it.

Learn more:

- ECNL's role in establishing the 2% designation mechanism; [link](#)
- Moldova Partnerships for Sustainable Civil Society Program (MPSCS); [link](#)
- *Study: Experiences of the Percentage Designation Mechanism - case studies from Hungary, Poland and Slovakia;* [link](#)
- *Study: Fundraising by Moldovan CSOs from Domestic Sources: Opportunities and Perspectives;* [link](#)
- *Study: The Percentage Designation Based on the Hungarian Model: Can it Make a Difference in Moldova?;* [link](#)



[#giving2CSOs](#)

CREATING AN ENVIRONMENT WHERE CIVIL SOCIETY CAN FLOURISH

OUR ENGAGEMENT:

- Through analysis we develop innovative responses that consider local needs.
- Through training and strategic advice we empower local partners to be the resilient leaders of reform.
- Through long-term engagement we support norm development and implementation.
- We facilitate dialogue between CSOs and policy makers for sustainable outcomes.

A good environment for civic participation requires laws and conditions that enable and encourage it – from making it easy to set up CSOs to facilitating engagement in public affairs.

In 2016-17, ECNL focused on improving – and defending – CSOs' abilities to establish themselves, operate, and access funding by engaging with partners from civil society, government and parliament in countries as diverse as Cyprus, Ukraine and Mongolia.

In Armenia, our legal expertise contributed to the adoption of a more progressive law that allows CSOs for the first time to generate their own income from entrepreneurial activity and increases their sustainability. To ensure that CSOs can best utilise the law, we prepared user-friendly guides explaining how CSOs can engage in entrepreneurial activities that help them become more financially viable.

In Cyprus, ECNL's long-term engagement paid off with the passage of a much-improved Law on Associations in May 2017, which complies with European standards and improves conditions for the establishment and work of CSOs. ECNL's first work on the law goes back to 2007, when we published an assessment of the legal framework for CSOs with the objective of pushing for reform. ECNL also worked with the NGO Initiative – an informal coalition of CSOs leading reform legal efforts – to analyse drafts of the law from an international perspective.

In Lithuania, ECNL helped advise local partners on problems related to a proposed bill requiring CSOs to register and present themselves as lobbyists, report on meetings with decision makers and pay fees. The bill's initial draft would have limited the ability of civil society to participate in legislative processes. Thanks to ECNL's expertise, our partners ultimately convinced the government that the bill was flawed, and the problematic provisions were removed. As our local partner wrote *"with ECNL's help, we prevented our space for participation from shrinking"*.

ECNL also continued its long-running work in providing legal assessments and comments on draft legislation, facilitating working groups and providing in-person expertise in Armenia, Georgia, Moldova, Kosovo, the UK and elsewhere.

Learn more:

- A more progressive NGO Law adopted in Cyprus; [link](#)

EMPOWERING THE FIGHT AGAINST GROWING RESTRICTIONS ON FUNDAMENTAL FREEDOMS IN EUROPE

THE THREAT:

A growing number of EU countries are introducing measures that threaten people's ability to assemble, speak out and associate with each other

OUR RESPONSE:

We work with multiple partners to defend civic space and create stronger safeguards for CSOs' rights and freedoms

Civil society in parts of Europe has faced growing pressure from governments in recent years, including restrictions on their fundamental rights and aggressive smear campaigns against CSOs.

The hostile measures taken by some states include moves to restrict CSO operations, the dismantling of access to independent funding sources, the creation of obstacles to public participation, and harassment of CSOs through inspections, police raids, criminal proceedings and tax issues. Political rhetoric has also taken an ugly turn, with some officials attacking the sector in an attempt to undermine public trust.

ECNL is responding to these threats by empowering CSOs on the frontline to build solid legal arguments, to exchange experiences with others facing similar conditions, and to formulate response strategies. We are also helping them comply with current legislation. Our work in this area, as always, is based on international and regional laws and standards, and draws extensively from the work of ECNL and its partners across the globe.

We have also supported responses from European and international institutions regarding laws and practices in Europe. In 2016-17, we provided analysis and expertise to the EU Agency for Fundamental Rights in its report on challenges to civic space in the EU, and expert support to the Council of Europe Expert Council on NGO Law and OSCE Office for Democratic Institutions and Human Rights (ODIHR). We also provided expertise to other interested members of the donor and international communities on international safeguards around proposed restrictive laws.

Learn more:

- FRA: increasing restrictions within EU against CSOs promoting human rights; [link](#)
- OSCE/ODIHR opinion on Poland's planned central body for civil society development; [link](#)
- CoE Expert Council on NGO Law opinion on Romania's Draft Law on Associations and Foundations; [link](#)

WORKING TO BUILD BETTER STANDARDS FOR REGULATING FUNDRAISING

THE TREND:

Laws limit CSOs in raising much needed funding from the public

OUR RESPONSE:

ECNL produced the first-ever analysis on this trend as a base for creation of minimum principles for fundraising regulation

How can good laws support fundraising?

- Balance how much to regulate;
- Foster innovation;
- Be consistent, nonintrusive and simplified;
- Safeguard privacy



[#standards4giving](#)

Financial sustainability is one of the most serious challenges facing CSOs today. While fundraising from individuals and philanthropic organizations is becoming more important worldwide, governments in more countries are restricting civil society's ability to access these funds.

Despite this trend, there has been relatively little comparative research on how laws and self-regulation initiatives can support CSOs to raise funds from the public. To help fill this gap, ECNL conducted the first ever research comparing the regulatory framework for CSO fundraising in 16 countries from all regions of Europe.

One of the goals of the research – which reviews and analyses regulatory patterns and takes a deeper look at self-regulation – is to document best practices that can be considered elsewhere. A key finding of the report confirms that there is a sharp divergence in the trends: many states are working hard to reduce administrative burdens and regulatory controls on fundraising activities, but others are moving just as fast to increase state oversight.

The report finds that CSOs' ability to raise funds and be effective is most enhanced by regulation that encourages philanthropy across borders, fosters innovation and provides an appropriate balance between what should be legislated by the state, and what should be left to CSOs to regulate themselves.

To build on the report's findings, we convened a group of experts to develop global principles on regulation and self-regulation of fundraising. These are expected to be completed in 2019.

ECNL is also helping its partners implement a better approach to fundraising regulation on the ground. In Macedonia, we supported our partner Konekt to develop a certification mechanism for Macedonian CSOs to assess their compliance with requirements related to transparency, accountability and fundraising practices.

When a CSO is compliant, it receives a "CSO Trust Mark", demonstrating its trustworthiness in the utilisation of donated funds. The certification mechanism aims to build a bridge between CSOs and the public by strengthening trust and cooperation.

Learn more:

- Briefer: Regulating fundraising – which way forward?; [link](#)
- ECNL paper: The Regulatory Framework for Fundraising in Europe; [link](#)

FATF REFORMS: CHANGING POLICY GLOBALLY TO EXPAND CIVIC SPACE LOCALLY

THE THREAT:

FATF rules on anti-money laundering & counter-terrorism were being used to disproportionately target civil society in some countries, limiting funding and operations

OUR RESPONSE:

ECNL has worked with a coalition to help improve FATF's policies, removing provisions that targeted CSOs



#ExpertHubAML_CFT
@fatfplatform

Since 2013, ECNL has played a leading role in the Global NPO Coalition on FATF, which works to improve the Financial Action Task Force (FATF) policy framework. The FATF rules guide anti-money laundering and combating the funding of terrorism (AML/CFT) legislation around the globe – but they have had a negative, if unintended, impact on civic space, limiting CSO funding and operations.

After years of evidence building and engagement, the coalition won a victory in 2016, when FATF agreed to remove language singling out civil society groups as being “particularly vulnerable” to terrorist abuse. The provision had previously been used by governments as a rationale for imposing harsh restrictions on civil society. As a result of these changes, countries must now demonstrate that legal restrictions are addressed only at groups that have been specifically identified as being at risk from terrorism financing. Any restrictions must also be proportionate to the identified risk.

The change marked an important step towards opening civic space, but much work remains. The Coalition's focus has now shifted to the national level, to ensure that the new rules are applied consistently. ECNL is providing expertise and global perspective to help local partners better understand the new FATF framework - and to advocate for better national implementation.

In Kosovo, we brought together local CSO representatives and government officials to discuss AML/CFT policies and the new FATF framework. The comparative expertise, workshops and training sessions provided by ECNL helped CSOs to argue for improvement of the AML law and paved the way for a collaborative FATF-related risk assessment process.

In Nigeria, ECNL provided targeted expertise and mentorship to Spaces 4 Change to conduct a thorough analysis of the country's CSO law framework, identify challenges and promote recommendations for AML/CFT law reform. We also worked with the Network of Nigerian NGOs, who raised awareness of AML/CFT issues among civil society and established constructive engagement with regulatory authorities, with the aim of facilitating collaboration in future policy processes.

Learn more:

- The Global NPO Coalition on FATF; [link](#)
- A string of successes in changing global counter-terrorism policies that impact civic space; [link](#)
- Entry points for CSOs to engage in the FATF evaluation process; [link](#)

STRENGTHENING STANDARDS FOR EFFECTIVE PARTICIPATION

THE ISSUE:

Laws and practices increasingly threaten the right to participation, limiting civil society's voice in the development of law and policy

OUR RESPONSE:

We worked with the UN and Council of Europe on the development of standards to provide stronger protection for the right to participation

Across the globe, governments are increasingly limiting people's ability to participate in public affairs and lawmaking, while simultaneously questioning the legitimacy of civil society's voice in these processes. Civil society organisations are often sidelined in important consultations, or portrayed negatively as special interest lobbyists.

ECNL has been working to help change this trend, in part by supporting the creation of regional and international guidelines for public participation.

At the United Nations level, ECNL has provided its expertise to help formulate a number of resolutions aiming to strengthen the right to participation since 2014.

Our latest work was on the UN Human Rights Council [resolution](#) on Equal Participation in Public Affairs, which reaffirms the right and proposes specific measures for countries to consider when enforcing it. Importantly, the resolution calls on the UN Office of the High Commissioner for Human Rights (OHCHR) to develop practical guidelines that promote and protect the right to participation. ECNL worked with OHCHR throughout 2017 to help develop these guidelines, providing expertise in our region and facilitating CSO engagement during the consultation process.

At the regional level, ECNL was contracted as an expert to help develop the Council of Europe's Guidelines for Civil Participation in Political Decision Making, which were published in 2017 and provide a roadmap for effectively implementing the right to civil participation.

In our role, we provided drafting assistance to the Secretariat and the cross-sectoral working group of CSOs and ministries, and produced a background report that informed the development of the guidelines. We also worked with public officials and CSOs at the country level to apply the new standards in their own contexts. The Council praised the "quality of the draft guidelines drafted by ECNL which were accepted by all as basis for the common work" and ECNL's "leadership and coordination" of the drafting process.

ECNL also worked to help integrate international standards on the country level – notably in Ukraine, where we provided assistance in the drafting of the Law on Public Consultations.

Learn more:

- Summary briefer: CoE Guidelines for civil participation in political decision-making; [link](#)
- Background paper: Civil Participation in Decision-Making Processes: An Overview of Standards and Practices in Council of Europe Member States; [link](#)

FURTHERING EU POLICIES TO IMPROVE THE ENVIRONMENT FOR CIVIL SOCIETY WORLDWIDE

*“... shrinking civil society space is a global phenomenon, which is not restricted to developing countries but also, and increasingly, occurs in established democracies and middle- and high-income countries ... [we call] for the EU and its Member States to lead by example in strictly upholding the fundamental rights of civil society and to address any negative trends in this field ...”**

Since 2012, 159 initiatives have been adopted to restrict civic space worldwide. The European Union recognised the trend and has made it a key priority to help shape an enabling environment for civil society in developing countries through its economic and diplomatic leverage.

To support the EU's understanding of the trends and threats outside of Europe, ECNL provided expertise to several initiatives, including:

- In 2016, at a European Parliamentary debate on the topic, we highlighted that persistent, consistent and coherent support from the EU and others is needed to achieve long-term results and pointed to approaches for how this can be done.
- As a follow up to the debate, a parliamentary committee launched the drafting of a thematic report on closing civil society space. The report, which integrates submissions by ECNL, provides important guidance on how the EU could use its existing mechanisms to facilitate a "good environment" for CSOs. A follow up resolution of the European Parliament integrated important recommendations from this report, which if adopted will strengthen EU support to civic freedoms.

Closer to home, ECNL and its partners achieved a notable success in 2017, when the Commission was assessing European CSOs' vulnerability to money laundering and terrorism financing. The Commission was considering what measures may be needed to address vulnerabilities in the sector, but after a year-long engagement process, it ultimately opted for a soft-law approach (guidance and training) as opposed to stricter legal measures. This approach will be developed in a participatory manner with the CSOs, as recommended by ECNL and others.

Learn more:

- European Parliament public hearing on the issue of shrinking space for civil society; [link](#)
- EU report on addressing shrinking civil society space in developing countries; [link](#)
- EU and money laundering/counter-terrorism financing; [link](#)

*Shrinking space for civil society: the EU response (2017) European Parliament, DG for External Policies Policy Department. [link](#)



European Center for Not-for-Profit Law

Apáczai Csere János u. 17.
1052 Budapest, Hungary

www.ecnl.org

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- [FHI 360 Moldova](#) and the [Slovenské centrum fundraisingu](#) for their photos on page 5



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