

KEEP CIVIC SPACE HEALTHY



Monitoring Progress, Empowering Action



European Center for Not-for-Profit Law



Funded by the European Union

COVID-19 RESPONSE IN THE EASTERN PARTNERSHIP REGION: Emergency measures and civic freedoms

Amid the ongoing worldwide pandemic of coronavirus COVID-19, governments have been rapidly introducing new emergency measures. While these measures aim to save lives, they also have a major impact on civil society space and fundamental freedoms. As part of its [CSO Meter](#) initiative, ECNL and its partners in the Eastern Partnership (EaP) region monitor how laws and practices affect civic freedoms. This document summarizes the key measures that countries have introduced as a response to the pandemic (up to April 5, 2020) that affect human rights and civic freedoms, and highlights CSO responses.

EMERGENCY MEASURES

3 countries (Armenia, Georgia and Moldova) have introduced a state of emergency while Ukraine announced an emergency situation¹. The period of emergency is currently 1 month except in Moldova where it is 2 months. Azerbaijan introduced a special quarantine regime.² Belarus has so far only introduced quarantine for people entering the territory of the country³.

OFFICIAL NOTIFICATION OF DEROGATIONS FROM HUMAN RIGHTS TREATY OBLIGATIONS

So far Armenia, Georgia and Moldova have sent official notification of derogation from the **European Convention on Human Rights (ECHR)**. Article 15 of the ECHR gives countries “in exceptional circumstances, the possibility of derogating, in a temporary, limited and supervised manner, from their obligation to secure certain rights and freedoms under the Convention”⁴. All three countries have asked for derogations from freedom of association and assembly and freedom of movement. Other rights affected include right to liberty and security, protection of property and the right to education. Armenia also sent notification of derogation from Article 21 of the **International Covenant on Civil and Political Rights (ICCPR)** related to the right to peaceful assembly.



This publication was produced with the financial support of the European Union. Its contents are the sole responsibility of ECNL and its partners, Transparency International Armenia; MG Consulting LLC; Assembly of Pro-Democratic NGOs in collaboration with Legal Transformation Center; Civil Society Institute; Promo-LEX Association; and the Ukrainian Center for Independent Political Research (UCIPR) and do not necessarily reflect the views of the European Union.

THE MEASURES AND THEIR EFFECT

Limitation on the right to public participation

The state of emergency and related laws and measures to fight the pandemic were introduced in an expedite manner. It is important that states find ways to consult the public in the drafting, implementation, and evaluation of laws and measures including those related to public health emergencies.

At the moment, several laws that would affect the work of CSOs are under discussion or pending adoption in some of the countries (e.g., the draft laws on lobbying in Ukraine, the draft CSO law in Moldova or the amendments to the Law on public associations in Belarus). It is important that states do not use the pretext of the state of emergency as a means to curtail public participation in decision-making.

Limitations on public assemblies and gatherings

Public assemblies and other gatherings have been temporarily limited in almost all countries.

ARMENIA	public assemblies and gatherings of more than 20 persons are prohibited;
AZERBAIJAN	public assemblies and gatherings of more than 10 persons are prohibited;
BELARUS	the Ministry of Health has recommended limiting mass events but the football championship continues;
GEORGIA	assemblies and physical gatherings are prohibited (no more than 3 people can gather together);
MOLDOVA	all meetings, public demonstrations and other mass gatherings are prohibited, and people are forbidden to stay in public spaces in groups larger than 3 persons (except for larger families);
UKRAINE	all mass events (cultural, entertaining, sports, social, religious, advertising and other) are prohibited and more than 2 people are not allowed to gather (except for work and accompanying children).

Measures that limit the access to and spread of information

The provision of information by the State and the spread of information (particularly “false”) on coronavirus has been limited in almost all countries:

ARMENIA: *Requirement to cite official sources on the current and new cases of coronavirus infections*

- any publication or dissemination of publications, interviews, broadcasts by physical, legal persons and mass media should be only done through reference to the information provided by the commandant’s office (official information), except for the reports by state officials and references to these reports, references to official websites and social media pages of state bodies and/or officials of foreign countries as well as of international organizations;

AZERBAIJAN: *Broad limitation on the spread of false information that may be used beyond the current coronavirus emergency* - users and owners of information resources on the Internet must not allow “placement of the false information threatening to harm human life and health, causing significant property damage, mass violation of public safety, disruption of life support facilities, financial,

transport, communications, industrial, energy and social infrastructure facilities or other socially dangerous consequences”.⁵

BELARUS: *Harassment of journalists⁶ and bloggers⁷* who have called on the government to allow for access to information about the pandemic.

GEORGIA: *Limitation on the access to public information* – during the state of emergency public institutions are not obliged to comply with the deadlines set by legislation regarding requests of information.

MOLDOVA: *Blocking web pages and limitation on online content* - The Security and Information Service has ordered blocking of 54⁸ web pages “promoting fake news about coronavirus evolution and protection and prevention measures”. Nevertheless, 52 of these pages have been taken from a list⁹ of web pages that distributed fake news which were not related to COVID-19.

Limitations on the right to privacy

ARMENIA: Amendments to the law “On state of emergency” have been adopted on March 31 to allow authorities to collect information on the location and calls of the users of electronic communication services in order to identify the location, movements and the contact circles of potentially infected people during the period of state of emergency.¹⁰ Civil society activists have expressed concerns regarding the necessity and proportionality of this new measure.

Limitation on the freedom of movement

Most countries have introduced certain limitations on the freedom of movement - for example related to access to public spaces (e.g. parks), use public transport etc. In Azerbaijan the government has introduced a special SMS permission system to leave the place of residence for medical treatment, purchase of food and medications, visiting bank or post office, and attending funerals.¹¹ In Georgia citizens are required to stay in their homes between 9pm and 6am.

Severe sanctions

Countries have also introduced severe sanctions for violations of the state of emergency measures ranging from heavy fines (e.g. 1,150 EUR for individuals for first-time violations in Moldova) to imprisonment (e.g. up to 3 years in prison for a repeated offence in Georgia).

CIVIL SOCIETY RESPONSE TO COVID-19

Civil society has been at the forefront in addressing the COVID-19 pandemic through various initiatives:

Advocacy and joint action:

- In Moldova due to the prompt **advocacy** of journalists and media CSOs, the Audiovisual Council repealed its decision to require all audiovisual media to present the official position of the public authorities and renounce the expression of their own opinion in reflecting the topics concerning the COVID-19 pandemic;
- In Armenia a number of CSOs and lawyers issued a **statement** on the pending legal amendments that limit the right to privacy.¹²

- In Belarus **petitions** were submitted to the government to lift restrictions on domestic financing of CSOs as intermediaries in the provision of assistance from businesses to hospitals related to the COVID-19 pandemic;
- Online **monitoring** of impact of measures e.g., campaign to monitor and report hate speech in the context of COVID-19¹³;
- **Calling upon responsible authorities** to provide timely and accurate updates on the spread of coronavirus.

Community support:

- Collecting **donations** for the frontline public services, to help elderly people and vulnerable families etc;
- Organizing **volunteers** to provide food and support to groups at need;
- Providing **free legal advice** on labour rights;
- Engaging in **projects to support fight against COVID-19** with private, international¹⁴ and government funding¹⁵;
- Organizing **online courses** for capacity building of CSOs.



Awareness raising:

- Awareness raising on government initiatives, rights and limitations, possibilities to use online e-gov services (e-request, e-cadastre, e-register, etc);
- **Permanent dialogue** with the authorities and representatives of diplomatic missions, by providing information and explanations.

COUNTRIES WITH STATE OF EMERGENCY/EMERGENCY SITUATION

	ACT	DATE OF INTRODUCTION	DURATION
ARMENIA	Government Decree on State of Emergency	March 16, 2020	April 14, 2020
GEORGIA	Presidential Decree on State Emergency NI	March 21, 2020	April 21, 2020
MOLDOVA	Decree nr 55	March 17, 2020	May 15, 2020
UKRAINE	Resolution of Cabinet of Ministers No. 338-r	March 25, 2020	April 24, 2020

LIST OF COUNTRIES WITH DEROGATIONS FROM HUMAN RIGHTS TREATY OBLIGATIONS

	WHEN?	ON WHAT?
ARMENIA	March 20, 2020	ICCPR: Article 21 of the Convention (<i>Right of peaceful assembly</i>) ECHR: Articles 5 (<i>Right to liberty and security</i>) and 11 (<i>Freedom of assembly and association</i>) of the Convention, Article 1 of Protocol No. 1 (<i>Protection of property</i>) and Article 2 of Protocol No. 4 (<i>Freedom of movement</i>)
GEORGIA	March 23, 2020	ECHR: Articles 5 (<i>Right to liberty and security</i>), 8 (<i>Right to respect for private and family life</i>), 11 (<i>Freedom of assembly and association</i>) of the Convention, Articles 1 and 2 of Protocol No. 1 (<i>Protection of property and right to education</i>), Article 2 of Protocol No. 4 (<i>Freedom of movement</i>)
MOLDOVA	March 20, 2020	ECHR: Article 11 (<i>Freedom of assembly and association</i>) of the Convention, Article 2 of the Protocol No. 1 (<i>Right to education</i>) and Article 2 of the Protocol No. 4 (<i>Freedom of movement</i>)

ENDNOTES

1 The emergency situation regime is a special temporary legal regime that arises due to the violation of the normal conditions of life and activity of people through an accident, catastrophe, natural disaster or epidemic, which is implemented in the manner prescribed by the Civil Protection Code of Ukraine. At the same time, unlike the state of emergency, it does not imply state interference in the management of private companies or restrictions on the rights and freedoms of Ukrainians. <https://pravo.org.ua/en/news/20874318-weekly-analytics-of-the-cplr-for-23--30-march-2020#Forced%20hospitalization%20without%20a%20court%20decision%20is%20unconstitutional>

2 <https://cabmin.gov.az/az/article/761/>. It indicates which persons and legal entities, government bodies are allowed to work and other preventive actions such as the movement of vehicles.

3 <http://law.by/news/legal-news/2020/mart/48164/>

4 https://www.echr.coe.int/Documents/FS_Derogation_ENG.pdf

5 Law of March 17, 2020, on Amendments to the Law of the Republic of Azerbaijan "On Information, Informatization, and Protection of Information" <http://e-qanun.az/framework/44788>

6 <https://www.occpr.org/en/daily/11949-belarus-detains-journalist-who-exposed-corruption>

7 <https://www.racyja.com/hramadstva/vitsebskuyu-blogerku-volgu-zhurausku/>

8 https://sis.md/sites/default/files/e-biblioteca/doc_starg/indicatii_executorii.pdf?fbclid=IwAR3uzqjtXFNx2b4t5jHQNydFpXySXnPX9qnNINdERWjA_OxwQRWQ5fa4SgU

9 <https://stopfals.md/ro/>

10 Amendments to the law "On State of Emergency": <https://www.arlis.am/DocumentView.aspx?docid=140752>.

11 SMS shall be sent with indication of purpose and passport information, the reply comes within 1 hour and only then one can leave. There are exceptions to this rule- e.g. for persons and legal entities that are allowed to continue working. Instructions on how to use SMS system is available in Azeri at <https://apa.az/en/social-news/Instructional-video-regarding-use-rules-of-SMS-permission-system-prepared-for-citizens-317158>

12 Statement on the claim to remove the draft from circulation, 31 March 2020, <https://hcav.am/en/nakhagits-hayt/>

13 Promo-LEX disseminates messages aimed to prevent and report hate speech. They will publish a Report on hate speech that will include information on hate speech in the context of COVID-19.

14 <https://www.irf.ua/context/konkurs-grantiv-dlya-protydyiy-koronavirusu-lyudyanyist-i-vzayemodopomoga/>

15 E.g. the NGO Support Council in Azerbaijan decided to issue 56 grants for CSOs on COVID-19. http://www.qht.az/index.php?action=static_detail&static_id=38387