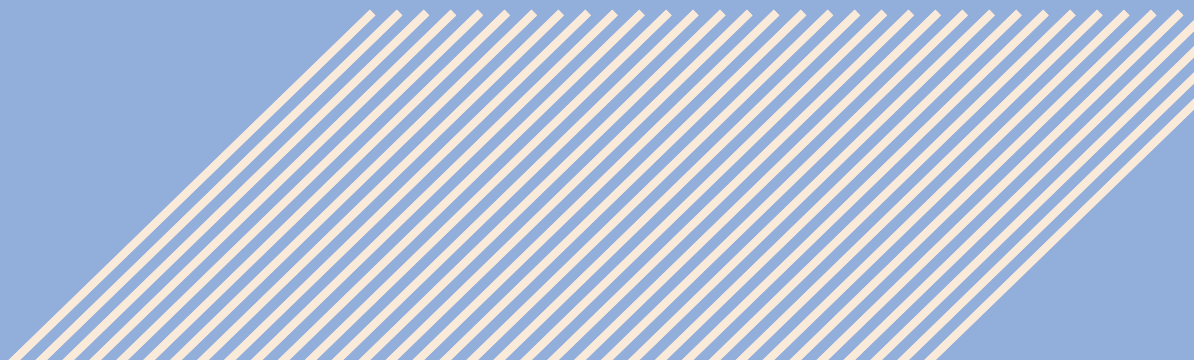


European Center for Not-for-Profit Law

Annual Activity Report 18

*Creating Opportunities to Enjoy
Civic Freedoms*



Cutting-edge expertise
in laws affecting civic
freedoms



Table of Contents



Highlight Stories 4

Expert support for enabling national laws and policies affecting civic freedoms..... 4

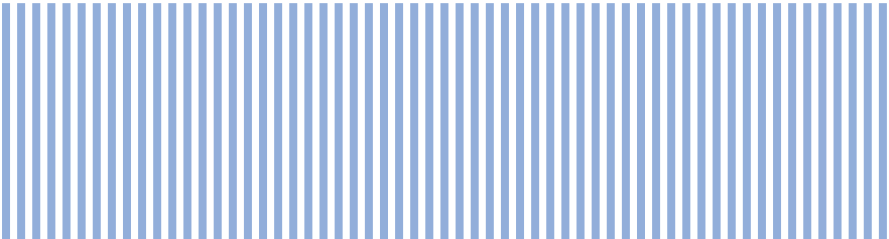
Help CSOs to navigate restrictions..... 7

Create Legal Task Force on EU law and civic space 8

Convene, train, mentor and support work on anti-money laundering and counter-terrorism financing laws (AML/ CFT)..... 10

Strengthen standards for effective public participation and freedom of assembly..... 12

Empower partners to monitor enabling environment for fundamental freedoms 14



Highlight Stories

Expert support for enabling national laws and policies affecting civic freedoms

In 2018 ECNL continued to focus on supporting the improvement – and protection - of the legal environment for civil society organizations (CSOs) in countries beyond, but also within the European Union.

In the **Netherlands**, ECNL provided expert support on the 2018 draft Act on Transparency of CSOs and worked with partners to raise awareness how the draft violates European standards on fundamental freedoms and may negatively affect CSOs and philanthropy. The draft requires all CSOs to publish overviews of donations that amount in total to or exceed 15,000 EUR a year, including the names and places of residence of the donors. Failure to do so may lead to disproportionate sanctions, such as fines, community service or detention. There was serious concern that the draft Act would affect CSO ability to raise funds; as the disclosure requirements may deter donors from giving in a fear that their beliefs, personal circumstances or private information will be revealed. ECNL co-operated with Dutch law experts, CSOs and European partners, submitted our [comments](#) to the Dutch government in response to the consultation process, and some partners referred to ECNL's opinion in their own submissions.

ECNL also addressed the trend of EU governments imposing unnecessary and burdensome reporting requirements on CSOs in an effort to implement the **EU Anti-Money Laundering (AML) Directive**. For example, in **Romania**, a 2018 draft law required CSOs to have a specialised staff member as AML compliance officer and provide personal details of every beneficiary or donor. If a CSO does not comply, it may be dissolved. We responded in two ways: (1) we provided tailored expertise to partners in the countries to rebut arguments against this overregulation; (2) we started to collect evidence of misapplication of the Directive and alerted the European Commission. We currently study the application of the EU Directive in other countries and its effect on the freedoms of association and privacy, in order to develop recommendations and action to help avoid similar restrictions.

In **Kosovo** ECNL supported the ongoing drafting process of a new NGO law. We provided expert comments, shared international examples and facilitated dialogue between CSOs and state authorities. Through this we increased local partners' capacity to engage in the reform. As a result, a progressive law was adopted in 2019 shortening the registration period for CSOs and extending the list of public benefit activities.

“As civil society here in Kosovo, we did our best in this very long and difficult process. Yet, it was our joint work with ECNL at the Government level that made the original version of the law the one to be worth this fight. Without your great support, everything would have been much harder, if not impossible.”

Local partner from Kosovo

Help CSOs to navigate restrictions

ECNL published a Handbook on [Registering a Civil Society Organization](#), a resource that provides easy-to-use information on laws regarding incorporation and operation of CSOs in selected countries in Europe and Middle East and North Africa region. Available in English, Arabic and Russian, the Handbook proved to be a sought-after resource and guides CSOs should they wish to reallocate all or part of their operations to a new country in order to enhance operations or adapt to restrictions. This was conducted together with a pro bono lawyers from partner law firms. Based on request from local partners, we are now expanding the Handbook to include at least 12 more countries.

ECNL also actively supported partners in countries where governments introduced legal restrictions against CSOs to stay resilient in the face of threats to their rights and fundamental freedoms. In **Hungary** for example, we prepared analyses and legal briefs from perspective of EU law and Council of Europe standards, which explained complex issues clearly to inform both CSO strategies at home and advocacy abroad. We also facilitated CSO cross-border exchanges to helps CSOs develop effective responses. In addition, we engaged with the international community so that stakeholders were more aware of and responsive to restrictive measures targeting Hungarian CSOs.

Create Legal Task Force on EU law and civic space

ECNL works on the relatively untapped potential of using the EU legislation to protect civic space. In 2018 we launched an informal Legal Task Force to analyse civic space restrictions in the light of EU law and to develop arguments for domestic law reform and EU-level strategic litigation. Our joint initiative with Civil Liberties Union for Europe, European Foundation Centre and Open Society Justice Initiative brings together pro bono lawyers and CSO partners in Europe. The task force held its first meeting in Prague, on the margins of a training for CSOs organised on the topic by CEELI Institute. Importantly, ECNL also highlighted the potential in this field at the Fundamental Rights Forum, organised by the European Union Agency for Fundamental Rights (FRA) in September. Here we discussed opportunities for strategic litigation to protect civic freedoms of association, assembly, expression and participation and highlighted existing examples and lessons learned with focus on Hungarian and Romania cases. We are now following up with the FRA on broader initiative regarding strategic litigation in Europe. ECNL also spoke at the annual EU Colloquium on Fundamental Rights where we presented policy and legislative initiatives in EU countries that challenge



civic participation. As a follow up, in a [joint petition](#) signed by a coalition of CSOs, we urged the EU institutions to commit to a series of key initiatives to uphold the role of civil society, including monitoring and taking legal action against restrictions. Our legal task force is now developing initial guidance on arguments how EU law can be interpreted and used to counter civic space restrictions.

Convene, train, mentor and support work on anti-money laundering and counter-terrorism financing laws (AML/CFT)

In 2018 ECNL set up a global Expert Hub on AML/CFT. The Hub is a resource group of local CSO leaders and activists committed to lead initiatives in their own countries in this field. The Expert Hub collects good practices, monitors and alerts on trends, contributes to peer learning, information-sharing and the development of guidance. The Hub links global, regional and national level work, its members come from 16 different countries and represent nearly all regions of the world.

ECNL supports the Hub through providing trainings on core AML/CFT standards and procedures. We also offer mentoring to participants in drafting country level engagement strategies. ECNL also support partners to address restrictive proposals in national laws in the name of AML/CFT, as we did in Sri Lanka or Bulgaria. In Kosovo we supported CSO engagement in the sectoral risk assessment and mutual evaluation process. In Moldova, we helped set up an informal coalition

of CSOs and provided them with expertise to prepare for the FATF/MONEYVAL evaluation. In Tunisia, we work with governments and CSOs to develop constructive risk assessment process.

Finally, ECNL connects the issue of civic space and AML/CFT with global initiatives. For example, with our consortium partners we held a side event on the margins of the G20 meeting in Argentina and participated in session at the FATF Private Consultative Forum in Vienna and



Paris on the topic of bank de-risking. We shared how the practice of financial institutions restricting financial services to CSO clients due to high risk affects their ability to deliver legitimate humanitarian aid and development activities to women, children and other endangered groups of society, and how G20 governments can help address this issue.

Strengthen standards for effective public participation and freedom of assembly

ECNL supported the UN Human Rights Council and the United Nations Office of the High Commissioner for Human Rights (UN OHCHR) to develop standards on participation. The [UN Guidelines on the Effective Implementation of the Right to Participate in Public Affairs](#) were adopted in September 2018. These guidelines are particularly important: as a first such document on a global level, they can be essential to enforce and protect this fundamental right both on the national and local level. They provide practical recommendations to both states and civil society, outline the right's basic principles and emphasise the need to provide a safe, conducive environment for people to participate freely.



ECNL was key partner to OHCHR: (1) we provided conceptual and substantial input to the draft document in various stages; (2) helped OHCHR design and implement a highly inclusive [consultation process](#); and (3) brought in national experts to regional consultations in five countries to enable local CSOs from Asia, Middle East, Latin America and Africa to directly share their experiences, which were then integrated in the final draft. ECNL also works with regional and national partners to help integrate these international participation standards on the country level; e.g., in Moldova we supported the process of developing the new Moldova Civil Society Development Strategy 2018-2020 which includes these standards.

ECNL also worked on international standards to strengthen the safeguards for the exercise of freedom of assembly. We engaged with the **UN Human Rights Committee** and provided expert input and briefing which helped them decide to develop a first **General Comment on freedom of peaceful assembly** (Article 21 of the International Covenant on Civil and Political Rights). Through General Comments, the Committee provides authoritative interpretations of individual rights and guidance for their practical implementation. The Chair of the Committee welcomed ECNL's initiative to develop a collaborative dialogue, host a briefing event, and provide analysis and supporting arguments as the right way to advocate for such a standard setting document. If adopted the General Comment on Article 21 will further help legal professionals and civil society to litigate cases before the UN relating to freedom of assembly violations.

Empower partners to monitor enabling environment for fundamental freedoms

ECNL works with a core group of local experts to create a tool to monitor the environment in which CSOs operate in the Eastern Partnership countries (Armenia, Belarus, Georgia, Moldova, Ukraine). In 2018 we developed a set of standards and indicators to help evaluate CSOs' legal framework as well as the situation in practice in 10 areas, including freedom of association, assembly, expression, access to funding, or privacy. The tool, called CSO Meter, will be piloted in 2019. It is a much anticipated resource, which will inform not only CSOs, but also donors about the progress or regression in the above areas.

“Your project is one of the most advanced EU-funded regional projects and would be good to inform the donors of what is happening. It is a subject of interest as we focus in recent time on monitoring of CSOs.”

EU Delegation in Ukraine

“The training in Belfast was one of the most intensive experiences of my life. It was fascinating to observe the liaison between parades, politics and peace building efforts” and they “... particularly appreciated ... getting the opportunity to understand all the different sides before the protest.””

Participants of the training



As a separate initiative, we also continue to support our network of local partners in 11 countries (Albania, Armenia, Belarus, Bosnia and Herzegovina, Croatia, Macedonia, Moldova, Montenegro, Kosovo, Serbia

and Ukraine) to **monitor the right to free assembly**, analyse laws, observe protests, report challenges and engage in the legal reform process to protect and promote this fundamental right. For example, to further strengthen partners' responses we offer targeted trainings and mentoring. In 2018 we trained them on assembly

observation in Belfast and allowed them to observe an actual parade. We also organized briefings with police, parade organizers and opponents to the parade. Exposing them to this first-hand experience helped partners conduct observations of how police manage assemblies in their countries and gather evidence to propose reforms in their [2018 assembly monitoring reports](#).

Our Network

ECNL is engaged at the European and international level as expert or member of different European and international networks, including:

[International Center for Not-for-Profit Law](#)

[The Global NPO Coalition on FATF and the Expert Hub on Anti-Money Laundering and Terrorism Financing](#)

[European Civic Forum](#)

[Civil Society Europe](#)

[Eastern Partnership Civil Society Forum](#)

[European Social Enterprise Law Association](#)

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18