

## SUBMISSION TO THE 50TH HUMAN RIGHTS COUNCIL SESSION REPORT ON FREEDOM OF PEACEFUL ASSEMBLY AND FREEDOM OF ASSOCIATION IN ARMENIA

Transparency International Anticorruption Center (TIAC) and the European Center for Not-for-Profit Law Stichting (ECNL) are pleased to provide a submission to the [call for inputs](#) from the mandate of the Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association for his report to be presented at the 50th session of the Human Rights Council.

This submission provides a summary of our findings from the monitoring of the civil society environment in Armenia, which was done based on the [CSO Meter](#) monitoring tool, developed by ECNL and its partners to assess the civil society environment in the Eastern Partnership region. We conclude our submission with a set of recommendations on what the government of Armenia and other stakeholders could do to facilitate the rights to the freedom of peaceful assembly and association in Armenia.

### Freedom of Association

#### Registration

The freedom of association is guaranteed by legislation in Armenia. CSOs do not face significant difficulties during their registration and operation. There is no requirement to register as a legal person for civic initiatives, and no limitations for associating online.

In practice, there are no reported cases of any CSOs not being able to register. According to the information provided by the State Register, there were 20 cases of rejection out of 1,016 applications for CSO registration. In all these cases, based on the justification of the rejection provided by the State Register, the organisations made necessary corrections and were eventually registered. CSOs mention the responsiveness and collaborating attitude of the State Register staff, who provide support throughout the registration process before the timeline of the registration expires so that there is no need for rejection. However, CSOs often have to adapt their name and charter to the comments and suggestions provided by the State Register staff, which sometimes is viewed by CSOs as discretionary interpretation of the law. Most often, CSOs accept these requirements and do not enter into dispute in order to avoid waste of time and repetitive applications.<sup>1</sup>

#### Reporting and oversight

The authorised body responsible for the oversight of public organisations' and foundations' compliance with legal requirements is the Department for Non-Profit Organisations' Oversight of the State Revenue Committee. Its functions include awareness raising of non-profit organisations, receiving reports and other documents prescribed by the law, review of these documents and assessment of their compliance with law. Based on the results of legal compliance assessment, the Department can initiate administrative proceedings, provide recommendations on the removal of violations, initiate suspension or dissolution of an organisation

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<sup>1</sup> Focus group discussions for CSO Meter Armenia report, October 2021

through the court application.<sup>2</sup> There are no publicly available rules or guidelines on the scope and criteria for monitoring and inspection of CSOs by the Department.

Both public organisations and foundations provide annual reports on their activities and budget, which are published on the website of SRC.<sup>3</sup> Based on the legal amendments adopted in 2020, the requirement of annual reports by all public organisations has entered into force and implemented for the first time in 2021.<sup>4</sup> SRC organised public meetings in March 2021 to present the changes in reporting procedure for public organisations and foundations.<sup>5</sup> According to the letter from SRC, less than half of the registered public organisations provided their annual report by October 20, 2021, presumably due to the lack of awareness of the new requirement. Though the law does not provide any exceptions, in practice, no sanctions are applied to organisations that failed to present the report in case they did not have any financial transactions in the reporting year.

In practice, the reporting requirements are considered not overburdening but there are fears that these requirements can lead to further interference by state. CSOs and experts, generally agreed that the annual reporting form is simple; however, some of them still questioned the necessity of the annual report.<sup>6</sup> On one side, CSOs welcome the perspective of better transparency for the sector. At the same time, concerns were raised on the possibility of the state intervention in the activities of CSOs.

### *Suspension and dissolution*

The law sets gradual sanctions for CSOs failing to comply with legal requirements, including suspension for gross violations. Registered CSOs can be subject to administrative liability if they fail to provide a report, as well as in case of carrying out activities that contradict the goals specified in their charters. The latter clause lacks specificity as to what can be considered as contradicting CSO goals. Penalties for violation of these provisions are applied gradually with 30-day intervals and include a warning to the organisation head, a fine of 50,000 AMD (about 90 EUR), a fine of 200,000 AMD (about 360 EUR).<sup>7</sup> The grounds for suspension of a public organisation include a gross breach of law during foundation or operation of the organisation. If these grounds are not removed within one year, the organisation is subject to dissolution. In addition, the grounds for involuntary dissolution include activities aimed at overthrowing constitutional order or incitement of hatred or preached violence or war.<sup>8</sup> In such cases, the decision on dissolution is made by the court on the basis of a properly justified request by the authorised body. The grounds for involuntary dissolution of foundations include gross violations or frauds during the operation or establishment, insufficiency of foundation's property for its operations, incompliance with the charter goals, the impossibility of achieving goals, endangering state security or public safety, public order, public health and morals, or the rights and liberties of others.<sup>9</sup> Dissolution of foundations, whether voluntary or involuntary, can take place only by a court decision.

According to the information from the State Revenue Committee (SRC), in 2021, SRC sent 790 warnings to public organisations and 356 warnings to foundations that did not submit annual report in line with the legal regulations. Further, SRC issued 21 decisions on fines of 50,000 AMD (about 90 EUR) for those who did not manage to fulfil the reporting obligation within the timeline set by the warning, and 10 decisions on fines of 200,000 AMD (about 360 EUR) for CSOs that did not publish the reports after the first decision on fine. No

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<sup>2</sup> Charter of the Department for Non-Profit Organisations' Oversight adopted by the Order No 137-L of the Chair of RA State Revenue Committee, 04.03.2019, [https://www.petekamutner.am/Shared/Documents/src/as/Statutes/hr\\_hhpekn\\_2019\\_137\\_L.pdf](https://www.petekamutner.am/Shared/Documents/src/as/Statutes/hr_hhpekn_2019_137_L.pdf)

<sup>3</sup> Reports of non-profit organisations, RA State Revenue Committee, [https://www.petekamutner.am/Reports\\_vh.aspx](https://www.petekamutner.am/Reports_vh.aspx)

<sup>4</sup> Amendments to the RA Law on Public Organisations, 25.03.2020, <https://www.arlis.am/DocumentView.aspx?docid=141094>

<sup>5</sup> SRC specialists presented legislative amendments to public organizations, State Revenue Committee, <https://www.petekamutner.am/mdNews.aspx?sid=ts&nid=7800>; Meeting with representatives of foundations was held in SRC, State Revenue Committee, <https://www.petekamutner.am/mdNews.aspx?sid=ts&nid=7790>

<sup>6</sup> Expert interviews and focus group discussions, October 2021

<sup>7</sup> RA Code on Administrative Offences, 06.12.1985, last amended 30.07.2021, article 169.18, 169.26, 169.27, <https://www.arlis.am/documentview.aspx?docid=73129>

<sup>8</sup> RA Law on Public Organisations, 16.12.2016, article 32

<sup>9</sup> RA Law on Foundations, 26.12.2002, article 34

sanction was applied for activities contradicting charter goals within the last two years. According to the data provided by the State Register, there were no cases of involuntary dissolution of CSO within 2020-2021, and 13 cases of dissolution on the basis of CSO application.

### Freedom of Peaceful Assembly

The freedom of peaceful assembly is protected by the Armenian legislation in line with international standards. However, in practice in numerous instances the state fails to guarantee and protect assembly. Negative developments are linked with the restrictions of assemblies during the martial law and further developments in the political scene. Incidents of using disproportionate police force were reported while inconsistent policing depending on the theme and participants of the protests was noted.

Assemblies were prohibited in 2020 during the state of emergency announced in the context of COVID-19 pandemic, but the prohibition was lifted in August 2021, and the assemblies were allowed with the requirements of keeping social distance and wearing face masks.<sup>10</sup> However, all assemblies and strikes were prohibited during the martial law announced by the government after the Nagorno-Karabagh war broke out on September 27, 2020.<sup>11</sup> The martial law extended up to the March 2021, but the government lifted the provisions on the prohibition of public assemblies and strikes on December 2, 2020.<sup>12</sup> Despite the restrictions, many public assemblies were held in this period. During the war, most of these assemblies were aimed at attracting the attention of international organisations and countries, with practically no intervention by the police. After the ceasefire agreement, protests took place against the government and the provisions of the agreement, many of them demanding resignation of the prime minister. The protest that occurred immediately on the night of announcing the ceasefire agreement was distinct from others as it was marked with violence, while the police failed to provide adequate protection.<sup>13</sup> Further protests were generally peaceful; however, since they violated the provision of martial law, police representatives announced the unlawfulness of the assemblies and sometimes applied force to disperse the assemblies.<sup>14</sup>

In 2021, a number of assemblies were held by both the opposition groups and the party in power, which continued through the election campaigns ahead of snap elections held on June 20, 2021. There were a few instances of assembly dispersal in case of blocking roads and not obeying to the warnings; however, most often police did not apply force but only issued warnings. During the period preceding snap parliamentary elections, instances of misuse of administrative resources forcing to participate or not participate in assemblies by various political forces were reported.<sup>15</sup> There were a few assemblies on non-political themes in 2021; the one in the spotlight of the civil society was the protest against construction in the green zone known as "Fizgorodok" district.<sup>16</sup>

A number of cases on inappropriate force use by police to detain protest participants and disperse the protests were reported in 2021, including applying force towards and detaining minors. There are also documented

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<sup>10</sup> RA Government Decision No. 298-N "On the State of Emergency", 16.03.2020, amended 13.07.2020, <https://www.arlis.am/DocumentView.aspx?docid=145261>

<sup>11</sup> RA Government Decision No. 1586-N "On Declaring Martial Law in the Republic of Armenia", 27.09.2020, <https://www.arlis.am/DocumentView.aspx?docid=146259>

<sup>12</sup> RA Government Decision No. 1917-N "On making amendments to RA Government Decision No. 1586-N dated September 27, 2020", 02.12.2020, <https://www.arlis.am/DocumentView.aspx?docid=147807>

<sup>13</sup> Angry Mob Assaults Armenian Lawmaker, Threatens RFE/RL Bureau Following Nagorno-Karabakh Truce, Radio Free Europe/Radio Liberty, 10.11.2020, <https://www.rferl.org/a/angry-mob-attacks-rfe-rl-s-armenia-office-amid-unrest-following-nagorno-karabakh-deal/30939895.html>

<sup>14</sup> Monitoring of Freedom of Peaceful Assemblies, October-December 2020, Helsinki Committee of Armenia, Yerevan 2021, [http://armhels.com/wp-content/uploads/2021/06/Monitoring-of-Freedom-of-Assemblies\\_2020\\_ENG.pdf](http://armhels.com/wp-content/uploads/2021/06/Monitoring-of-Freedom-of-Assemblies_2020_ENG.pdf)

<sup>15</sup> Final Report of the Observation Mission of Snap Elections of the RA National Assembly held on June 20, 2021, "Akanates" Observation Initiative, <https://transparency.am/hy/news/view/3363>

<sup>16</sup> "The construction of a high-rise building in "Fizgorodok" in Yerevan is a cause of protest and uproar: there are detainees", Radio Free Liberty, 21.09.2021, <https://www.azatutyun.am/a/31421694.html>; We Condemn Seizure of Area Adjacent to Physics Institute and Exercise of Violent Force by Police, Ecolur, 23.08.2021, <https://www.ecolur.org/en/news/cities/13415/>

cases of inappropriate treatment violating the human right to dignity and failure to follow the legal procedure of detention.<sup>17</sup>

The experts note that there is a lack of investigations and sanctions applied against police officers who acted unlawfully during the assemblies. The proceedings against police officers initiated for the violations in 2015 and 2016 protests are still in process and no serious charges have been applied yet for the incidences of grave violence on the side of police officers against the journalists and assembly participants.

## Recommendations

Based on the above findings, we have highlighted the following recommendations addressed to the government which could help to facilitate CSO registration process and improve the practice in the areas of freedom of peaceful assembly and association:

- The State Register is recommended to publicise a user-friendly instruction on the registration process, including main principles related to the organisation name, goals and objectives, other provisions required by law, as well as frequent questions and answers. This would insure better awareness on the registration requirements and minimise any discretionary approach by the registry.
- The Ministry of Justice is recommended to provide opportunity for CSOs to register and update their registration data through electronic channels.
- State Revenue Committee and other stakeholders are recommended to implement awareness-raising activities on the annual reporting requirement, including through visual means (video clips, animation, infographics) widely disseminated via CSO networks and mass media.
- The police should exclude any unlawful actions by the police officers and apply consistent approach to policing the assemblies.
- The law enforcement bodies should provide proper investigation and apply relevant sanctions towards the officers who abused their power in policing assemblies.

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<sup>17</sup> Annual Report on the Human Rights Situation and Activities of the Human Rights Defender of the Republic of Armenia in 2020, Human Rights Defender of the Republic of Armenia, <https://ombuds.am/images/files/883f55af65e3c33553139031c7ac0ce6.pdf>