

Civil Participation in Decision Making in the Eastern Partnership Countries

Part One: Laws and Policies

Study

Editor: Jeff Lovitt

Programmatic Cooperation Framework for
Armenia, Azerbaijan, Georgia, Republic of Moldova, Ukraine and Belarus

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I. INTRODUCTION

The challenges and opportunities in the field of participatory policymaking differ across the six Eastern Partnership countries (Armenia, Azerbaijan, Belarus, Georgia, Republic of Moldova, and Ukraine), but all six countries face shortcomings in the clarity, effectiveness, and inclusiveness of their policy-drafting and evaluation procedures.

From access to information to opportunities for citizens to participate in direct democracy – whether holding to account the heads of regional executive authorities, or engagement in referenda, petitions or public initiatives – to forms of public participation in policymaking, such as stakeholder analyses, expert reviews, roundtables, and online consultations – all the Eastern Partnership countries have room for improvement in terms of the regularity and inclusiveness of consultations around new policies and draft legislation. In all cases, there is also a need for more training of public officials in co-ordinating public outreach and consultation processes around draft legislation.

This study examines the existing laws, agencies and procedures governing civil participation in political decision-making at national and local level in the six countries, and will be complemented by a second study in 2016 that will examine the experience of implementation of civil participation in political decision-making.

In 2001, in the *White Paper on European Governance*, the European Commission highlighted five principles of “good governance”.¹ The principles, to be applied at all levels of government, including local and regional tiers, are openness, participation, accountability, effectiveness, and coherence.

The inclusion of the public throughout the different stages of policy drafting and policy implementation underpins the principle of participation. Non-governmental organisations (NGOs), or civil society organisations (CSOs), bring together policy experts and different groups representing a variety of citizens and community perspectives. As set out in the Council of Europe’s *Code of Good Practice for Civil Participation in the Decision-Making Process*, “NGOs bring knowledge and expertise to the process of decision-making which has led governments to draw on the experience of NGOs to assist them in policy development and implementation”.²

¹ COM(2001) 428. See <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:52001DC0428>

² <http://www.coe.int/en/web/ingo/civil-participation>

The knowledge and expertise provided by civil society, expert communities, professional associations, and at the local level neighbourhoods and business communities, can strengthen the policymaking process at the stages of conception, drafting, impact assessment, decision-making, and also at the stages of monitoring and evaluation of policy implementation.

Inclusive policymaking that takes into consideration the views of the wider public, expert communities, and representative organisations of a wide cross-section of society, facilitates the formulation of more effective laws and policies, and strengthens the legitimacy of decision-making at all tiers of government, including local and regional level.

But the policymaking cycle requires clarity as well as inclusivity.

Clearly stated procedures and timeframes need to be communicated to facilitate civil society participation in the different stages of the cycle to ensure efficient and accountable policymaking.

Context and stakeholder analysis, necessary for the **impact assessment** of draft laws and policies, is an essential part of responsible, accountable policymaking and good governance. Most of all, policymaking that takes into account those whose interests are affected by the implementation of the policies or laws under consideration broadens the ownership of the policies and their outcomes.

While the range of decisions and documents where inclusive policymaking can inform better decision-making is vast, this study has focused on consultations around the legislative cycle, starting from a Green Paper – an analytical study circulated early in the policymaking process, with the purpose of opening up a process of consultation and generating debate before a commitment to action or to draft legislation is made – through first drafts of legislation, parliamentary review of draft laws, and final enactment. To place this in context, the study also looks at freedom of information legislation, the transparency of decision-making on national and local budgeting and expenditure reporting, and the existence of established procedures and mechanisms to ensure that participatory policymaking can take place.

For civil society participation to be realised, an **enabling legal environment** needs to be in place, as do **procedures and guidelines that govern the consultation process** around the formation of new policies and legislation – procedures that are required by law, and accepted by a consensus among all stakeholders,

in particular public officials and political parties represented in parliament and government.

A strong culture of consultative communications must go hand in hand with a culture of transparency, backed up by freedom of information and clear, consistently applied timeframes that provide enough space for all interested parties to study Green Papers or draft legislation, and to be able to provide informed feedback and recommendations.

To support this, ministries, government agencies, and local authorities need the **knowledge and resources, including training in the policymaking process**, to be able to co-ordinate public consultations around new initiatives and laws – and civil society also needs to possess the necessary expertise and access to information in order to participate as a professional, constructive partner in the process.

These elements all underpin effective, consultative policymaking, and this study aims to highlight the areas where reforms and greater transparency are needed to improve the quality of the policymaking process in each of the six Eastern Partnership countries.

The study looks at each country, first looking at freedom of information laws that are a prerequisite for CSOs' engagement in the policymaking process, and for all interested parties to be able to monitor the implementation of laws and policies. As information on decision-making about public finances – and reporting on how public expenditure has been used – are key to empowering an informed public so that it can hold government to account, the state of disclosure is examined, alongside the availability of information about draft laws and policies, allowing entry points for citizens' inputs into evolving policies and legislation.

Then, the avenues for direct democracy are considered – not only direct elections for national and local representatives, but also for citizens to initiate referenda, petitions or public initiatives, including the right of legislative initiative by citizens, and the right to call for a vote to recall public officials.

This is followed by the most substantive part of the study, looking at laws and procedures to facilitate participatory policymaking. This section looks at government commitments under the Open Government Partnership, the policymaking cycle, including use of Green Papers, public consultations on draft laws and policies, dialogue and partnership mechanisms and forums,

the timeframes for CSOs to provide input on draft initiatives, and the extent to which authorities provide feedback on which recommendations have or have not been adopted. Formal requirements for monitoring and evaluation of the implementation of laws are also considered.

The final section looks at resources and to what extent there is an enabling environment, where civil society has the freedom to analyse draft policies and monitor the implementation of policies, and where government ministries and other public authorities have the financial and human resources, backed up by professional training, to co-ordinate policymaking and consultations around draft laws and policies.

II. COMPARATIVE OVERVIEW

i. Access to Information

- *Freedom of information legislation*

Dedicated freedom of information legislation, or equivalent provisions through the constitution and other legislation, are in place in all six countries, and applicable at national, regional and local level. However, the provisions for accessing information vary. Restrictions are often imposed in **Belarus** under legal exemptions that allow for non-provision of public information. Although in **Georgia** the General Administrative Code regulates freedom of information procedures, the country's latest Open Government Partnership Action Plan includes a commitment to elaborate a dedicated freedom of information law. A draft of the law was prepared in 2015; as of April 2016, it had not yet been enacted.

- *Disclosure of public finances and legislative proposals*

In **Georgia, Moldova** and **Ukraine**, the law requires the publication of detailed annual state budgets and expenditure statements for central and local government. Although such obligations are in place concerning national and local budgets in **Armenia**, in practice only general information is disclosed. In **Azerbaijan**, public bodies are obliged to disclose information regarding public budgets and expenditure. The Law on Access to Information also requires public authorities to provide regular expenditure reports. In **Belarus**, there is a legal obligation to publish annual budgets, but not expenditure statements, at national and local level, but only very general information is made available.

In **Armenia**, government websites should include a section on policies and legislation. However, the drafts of laws and policies are not regularly published before being signed into law. In **Azerbaijan**, draft laws, regulations, and policies are published on the official website of the Parliament, where visitors can submit feedback before the adoption of the laws. The internal statute of Parliament allows for public discussion after the first reading of a draft law. In **Belarus**, the law states that information about laws and policies, including draft laws, should be announced on national and regional government websites.

In **Georgia**, government websites must publish strategies, policy papers, and action plans, but this requirement is not consistently observed at the local government level. Although the publication of draft legislation is not required, draft laws are routinely published on the website of the Legislative Herald of Georgia. Since 2012, official government websites in **Moldova** have been required to publish information about new policies, legislation, strategic documents, and reports on transparency in the decision-making process. Each ministry's website has a page dedicated to "decisional transparency", where drafts are published for consultation. Likewise, all draft policies are published on the Government's open government portal. In **Ukraine**, information about draft laws, new legislation and policies are published on the websites of the Government, the Parliament, and the President.

ii. Direct Democracy

▪ *Direct elections*

In all six countries, there are direct elections for Parliament. In **Moldova**, the President was elected by Parliament until a constitutional court ruling on 4 March 2016 ruled on the constitutionality of 2000 legislation, and reinstated prior constitutional provisions mandating direct election of the President. In **Armenia**, on the other hand, a constitutional change passed by referendum in 2015 means the previously direct election of the President will henceforth be replaced by the election of the President by Parliament. In the other four countries, the President is directly elected.

While local councils and city councils are elected in all six countries, in **Armenia** (subject to change if the draft Electoral Code is passed into law), **Belarus**, **Georgia**, and **Ukraine**, regional governors or heads of regional executive authorities are appointed and dismissed by the Government or President. In **Ukraine**, the President also appoints and dismisses the executive heads in regions, districts, in Kyiv City, and in Sevastopol City. In **Moldova**, the city region or regional council elects the President of the *Rayon*. In **Azerbaijan**, the heads of local executive authorities are appointed and dismissed by the President.

- *National and local referenda*

National and local referenda are possible in **Armenia**, where a local referendum can be initiated by the signatures of 5% of the eligible voting population in the respective locality. National referenda cannot be initiated by citizens' signatures, but can be called Parliament, the President, or the Government. In **Azerbaijan**, a legally binding referendum can be held at the national level only upon the decision of Parliament. The two issues that can be submitted for a referendum are changes to the state border, and changes to the Constitution. Municipal referenda can be held at the initiative of local councils or citizens. In **Belarus**, national or local referenda can be held, but cannot relate to appointment or dismissal of officials or elected positions, and cannot be related to amnesties. Citizens can initiate a referendum if backed by 450,000 eligible voting citizens (of which at least 30,000 citizens should be from each of the provinces and the city of Minsk). In **Georgia**, non-binding referenda are possible at national and local level – and can be initiated at the national level with the signatures of 200,000 eligible voters. In **Moldova**, a national referendum can be initiated by the signatures of 200,000 eligible voters (this must include at least 20,000 citizens each from at least 50% of second-level administrative-territorial units), while a local referendum can be initiated by the signatures of 10% of the local voting population. In **Ukraine**, national referenda are binding, but require 3 million signatures of eligible voters, and at least 100,000 signatures from each region. A new law on local referenda is under preparation.

- *Public initiatives and petitions*

In **Armenia**, the law does not provide for public initiatives or petitions at national or local level. In **Azerbaijan**, citizens have the right to submit a “group appeal” to state bodies, and 40,000 eligible voting citizens have the right to initiate draft laws. In **Belarus**, the law provides a framework for local and national initiatives on important issues of state and public life, for citizens' petitions, and for citizens to make legislative proposals. However, no initiatives or legislative proposals submitted by citizens have been implemented to date.

In **Georgia**, citizens have the right to submit to the Parliament a legislative proposal about the adoption of a new law, or amendments to the law. The right to petition at the local level, signed by at least 1% of the voters registered in that municipality, obliges the municipality (*Sakrebulo*) to consider the project within one month from its registration. At the national level, legislation proscribes the

recall of parliamentarians through public petitions but, at the local level, it is possible to initiate a motion of no confidence in the Mayor (*Gamgebeli*).

The Law on Petitioning in **Moldova** prescribes the right to press any claim, complaint, or suggestion addressed to relevant public bodies, including a preliminary application contesting an administrative act or failure. The official body has the right to reject or accept the preliminary application of the petitioner and, where appropriate, cancel or modify the administrative act. Petitions are generally examined within 30 working days. If the petitioner does not agree with the response, she or he has the right to challenge the decision in the court within 30 days.

Citizens of **Ukraine** have the right to submit online petitions at the national level, and review by the authorities is mandatory if 25,000 signatures have been collected within a three-month period. Unless municipal charters specify otherwise, online petitions to local government authorities require the collection of between 50 and 1,000 signatures (rising with the number of inhabitants in the locality). The Law on Local Government allows public initiatives on any issue under the competences of local government, and review of public initiatives at plenary meetings of local councils with the participation of the initiators is mandatory. Mayors or deputies of regional and local councils can be recalled from office through a public initiative as early as one year after their election.

iii. Laws and Procedures to Facilitate Participatory Policymaking

- *Open Government Partnership*

Five of the six Eastern Partnership countries (the exception is **Belarus**) have joined the Open Government Partnership, an international initiative promoting citizens' engagement in government decision-making.³ **Armenia's** current Action Plan includes a focus on the "promotion of public participation", including *Smart Municipality*, an initiative to consult citizens in 10 communities, to ensure open, transparent and participatory policymaking, and to raise public awareness about draft policies. According to **Azerbaijan's** Action Plan, the state

³ The Open Government Partnership (OGP) is a multilateral initiative that "aims to secure concrete commitments from governments to promote transparency, empower citizens, fight corruption, and harness new technologies to strengthen governance". The OGP was launched on 20 September 2011. In 2016, there were already 69 OGP participating countries. See www.opengovpartnership.org.

authorities should involve CSOs in decision-making and law-making processes and related discussions. The second Action Plan of the **Georgian** Government included CSOs as implementing partners for different activities with different state institutions. Local authorities are also involved in OGP commitments, including e-governance. The Parliament of Georgia also joined the OGP in 2015. The **Ukrainian** Government's Action Plan for 2014-2015 referred to 16 CSOs as partners in specific law-making and policymaking activities, and commitments included development of a law on public consultations and a law on open data. The **Moldovan** Action Plan in 2012-2013 included a participatory decision-making process at the national and local level.

- *Green Papers*

A Green Paper launches a pre-drafting consultation, often setting out different options and scenarios, before any commitment to action or to draft legislation is made. In **Armenia**, there is no mandatory practice of issuing Green Papers, although they are published on an ad hoc basis. In **Azerbaijan**, there is a non-binding recommendation to ministries to issue Green Papers before drafting legislation, but the majority of ministries do not follow this recommendation. In **Moldova**, provisions exist for the elaboration of Green Papers before legislation is drafted, but they are rarely applied in practice. In **Ukraine**, the practice of publishing Green Papers is optional, but the concepts of national target programmes and laws are essentially Green Papers, and they are subject to public hearings. Green Papers are published only in isolated cases in **Belarus** and **Georgia**.

- *Public consultations on draft laws and policies*

In **Armenia**, there is a legal requirement to hold public consultations around draft laws, and there is a guide to the elaboration of draft legal acts, which allows for the creation of working groups and committees with the participation of all relevant stakeholders. However, discussions are held only once a draft has already been developed, and a participatory mechanism is lacking in the drafting of the main concepts of the laws.

Citizens may attend local council sessions, but the law does not oblige local authorities to request professional opinions or comments on decisions at the local level.

In **Azerbaijan**, the Law on Public Participation allows civil society participation in decision-making and monitoring mechanisms, and the National Strategy for Open Government sets out standards and procedures governing the involvement of CSOs and other stakeholders in the policymaking process. The Law on Public Participation requires the participation of CSOs at both national and local level in the election and formation of Public Councils. In addition, public consultation is one of the forms of public participation prescribed by the law.

At the local level, public participation is confined to the possibility to join local Public Councils.

In **Belarus**, no general legislation governs standards and procedures for participatory policymaking, although state bodies can create Public Councils (however, almost no information is available about their activities or composition), and legislation does establish the possibility of participation in legislation in the fields of entrepreneurship, the environment, youth, and social policy.

The law provides for the creation of councils on business development at the local level, and there is a requirement to conduct a public debate before decisions are taken at local level on the planning and development of human settlements and housing.

In **Georgia**, there is no single law that sets out standards and procedures for participatory policymaking, but a variety of regulations and norms include working group consultations and public hearings as standard practices. There is no strategy or manual governing civil society engagement in policymaking at national or local level, and there is no legal requirement to hold public consultations around draft legislation. The speedy adoption of amendments to sensitive legislation represents a challenge for interested parties to engage due to the restricted timeframe.

Petitions and local advisory councils are applicable only at the local authority level.

In **Moldova**, the Law on Transparency in the Decision-Making Process sets out standards and procedures on the involvement of citizens and other stakeholders in decision-making. Public consultations can be organised by the following means: public debates, public hearings, opinion polls, referenda, expert interviews, and the creation of standing or ad hoc taskforces involving civil society representatives. In 2010, the Government created the National Participation Council (NPC), a consultative body composed of 30 CSO representatives selected by the

Government. However, the NPC mandate expired in 2014 and the Government could not select a new NPC, in part because the number of applications for membership was too low.

The Law on Transparency in the Decision-Making Process applies also at the local level.

In **Ukraine**, general procedures for public consultations, policy expertise and involvement of stakeholders in advisory bodies of national executive authorities are set out in the Cabinet of Ministers Regulation (2010). Additional procedures include the Government's Methodologies for Regulatory Impact Assessments, and Procedures for Environment Protection and Urban Development. Draft laws must take due consideration of the opinions of expert institutions and, in the case of draft laws initiated by the Government, public consultations are obligatory. Parliamentary committees usually involve civil society and/or independent experts in their meetings or hearings, although these consultations are not binding, and their results are not published.

Regional executive authorities are subject to the same regulations as national authorities. Local government authorities are legally obliged to undertake regulatory impact assessments, and consult environmental experts.

- *Dialogue and partnership mechanisms/forums*

In **Armenia**, there are neither procedures for, nor experience of, participatory budget planning. Although the legal regulations require the organisation of public discussions around draft laws and policies with all interested individuals and organisations, there is no legally guaranteed role for civil society in the consultation process around new policies and legislation at national, regional or local level. Just as draft laws are not always published, public hearings and roundtable discussions often do not take place at all.

In **Azerbaijan**, there are no procedures for participatory budget planning at national level, but the Law About the Status of Municipalities requires it at the local level, where public hearings and town-hall meetings are held during the budget planning process. According to the Law on Public Participation, each executive authority and municipality is obliged to establish Public Councils of CSOs and discuss solutions with the public. Public hearings, expert roundtables

and online consultations can be held according to the Law on Public Participation and according to the internal statute of the Parliament. Public hearings can be held via the online portal of Parliament and within the Public Councils under the relevant ministries.

In **Belarus**, procedures facilitating and implementing participatory budget planning do not exist at national, regional or local level. The Law on Architectural, Urban Planning and Construction Activities requires a public debate to be conducted before the decisions of local councils or local executive administrations on the planning and development of human settlements and housing.

In **Georgia**, any interested stakeholders have a possibility to prepare comments on drafts in the budget planning process. At the local level, citizens can engage in the process through public proceedings, make comments, prepare recommendations, and raise initiatives. However, due to lack of awareness about the budgetary processes, the population does not apply the mechanisms very often. There are no specific or effective procedures in legislation that prescribe impact assessments on communities or public participation in planning (for instance, on environment-related issues). Information about consultations is usually distributed via e-mail among CSOs, academics and experts. In some cases, information about roundtables is announced in advance on the websites of the ministries, but usually this information is announced after the meeting itself, when the particular state institution shares information about the outcomes of the meeting.

In **Moldova**, the Law on Public Finances and Budgetary-Fiscal Responsibility prescribes public consultation on the drafts of legislative acts related to public finances. However, neither this law nor the Law on Local Public Finances offers procedures for public participation in budget planning or impact assessment, or consultations on draft budgets. Public consultations more often take the form of publication online of the draft laws and receipt of comments by email or in hard copy by post.

In **Ukraine**, there are no specific procedures on participatory national budget planning. According to the Cabinet of Ministers Regulation, all executive authorities are obliged to consult with the public concerning reporting on the use of budgeted funds. Usually, public expenditure consultation procedures are implemented in the form of online consultations and public events (public hearings, special working groups, conferences). Procedures are also in place to facilitate public participation in planning, namely the Law on Regulation of Urban

Development, and the Cabinet of Ministers Regulation on Public Hearings for Nuclear Energy and Nuclear Safety.

- *Advance notice and feedback on draft initiatives*

In **Armenia**, the Guidelines on the Methodology of the Elaboration of Draft Legal Acts prescribe 15 days after online publication of draft laws for receipt of comments and recommendations. In practice, each ministry, agency or local authority sets its own deadlines. There is no legal requirement for giving written feedback on which recommendations were or were not accepted, and in practice no feedback is given.

In **Azerbaijan**, the authorities are required to set deadlines for CSOs and for the public to provide comments on draft policies and draft laws. The Parliament provides the possibility of feedback via the Parliament website prior to the third parliamentary reading of the draft law.

In **Belarus**, when public discussions are held, no mandatory provisions are in place or implemented for CSOs and the public to comment and provide feedback on policy drafts, legislative drafts, or regional, municipal or local authority policies or plans. Legislation does not require written feedback to be published by the Government or local authorities on which recommendations have, or have not, been adopted, and why. In practice, such feedback is not given.

In **Georgia**, in general the legislative process provides reasonable time for submitting opinions, but there are a lot of exceptions in the law that allow Parliament to adopt draft legislation in a short period of time. In reality, the most important reforms and sensitive topics are usually discussed over such a short period of time that it is almost impossible to include proper participation in the process. There is no formal obligation for state institutions to provide the public with an account of which recommendations from the consultation process were, or were not, adopted, and why. Such cases are rare.

In **Moldova**, 10-15 working days have to be provided to interested parties to present comments to the drafts elaborated by the Government and ministries. In practice, the timeframe for submitting opinions varies. The public authority has to publish a summary of the objections and comments, and reasons for non-acceptance if they were not accepted. In practice, this rule is usually respected. At the level of the Parliament, 15 working days are provided for comments after publication of the draft on the website for consultation.

In **Ukraine**, at least 15 days are required for public consultations. Usually, these deadlines are met or prolonged to 30 days if the issue is of high importance. However, a number of politically sensitive draft laws are reviewed without any public consultations. While regional authorities are subject to the Cabinet of Ministers Regulation, municipal authorities regulate deadlines according to their own by-laws. At the same time, the Law on the Principles of Regulatory Policy in Economic Activities, which is mandatory for all public authorities and local government bodies, prescribes a consultation period of one to three months. The Regulation requires publication of the reports of the respective ministry or other national or regional authority on the results of public consultations within two weeks after the relevant decisions have been made. However, only one in three national and regional authorities provides detailed feedback (often owing to the absence of proposals from the public).

▪ *Monitoring and evaluation*

In **Armenia**, there is no requirement for monitoring and evaluation of the implementation of laws. In **Azerbaijan**, monitoring and evaluation of implementation of policies is incorporated into the Government's programmes, while CSOs carry out independent monitoring. In **Belarus**, public authorities should conduct analyses of the effectiveness of the measures and policies developed. However, there is virtually no place for civil society in these proceedings. In **Georgia**, the Government's implementation of policy documents, strategies and legislation is evaluated by the Parliament using different reporting forms. In **Moldova**, the Ministry of Justice has to report every year on the results of monitoring and to publish the report on its website. In **Ukraine**, there are rules and procedures for monitoring and evaluation, for instance in budget planning, regulatory impact assessments, and long-term national programmes approved by separate laws. The Government Regulation approved the facilitation of public scrutiny of the activities of the executive branch, including the implementation of laws and policies. Special agreements are already in place with donors to provide for monitoring and evaluation in specific sectors (HIV/AIDS prevention, financial services, energy).

iv. Resources and Enabling Environment

- *Civil society freedoms*

In **Armenia, Georgia, Moldova** and **Ukraine**, there is overall freedom of expression for CSOs, and no significant impediments to securing funding to conduct evaluation and monitoring. In Azerbaijan, there are restrictions on access to foreign funding for CSOs' activities monitoring policymaking and policy implementation. According to the law, foreign donors have to be registered in **Azerbaijan** in order to fund CSOs. In addition, funding for each project has to be registered on a case-by-case basis. A selective approach is applied, and the Ministry of Justice routinely rejects projects of CSOs working on human rights and democracy issues. In **Belarus**, consent for the use of foreign funding for formulating policy recommendations or monitoring policy implementation is never given.

- *State budgets and staffing for participatory policymaking*

In **Armenia**, some, but not all, government ministries have policy staff and resources supported through international funding sources. The Ministry of Justice may allocate some international resources to strategic policy formulation and drafting of legislation. Expert assessment and regulatory impact assessment take place both inside and outside the ministries. At the local level, public dialogue is organised by the secretariat of the head of the local authority. There is no legal requirement for civil servants to undergo special training on the processes of public consultation in policymaking.

In **Azerbaijan**, the Commission on Public Service includes the participation of NGOs as a mandatory feature of education of civil servants. In Belarus, no training is provided for civil servants vis-à-vis the conduct of public dialogue processes, and no specific budget allocations are available for the process of participatory dialogue.

In **Georgia**, most state institutions and administrative agencies have special units (analytical departments and legal departments) that work on drafting legislation, regulations, or policy documents. Prior to submission of a draft law to the Parliament, the draft must be submitted to the Ministry of Justice for review by legal experts. This mandatory function of the ministry is funded from the state budget. Trainings for civil servants working on policymaking and the policy planning process were conducted in six ministries in 2013-2014.

In **Moldova**, each public entity has a Department for Analysis, Monitoring, and Policy Evaluation. The Ministry of Justice has a General Directorate on Legislation, where the consultation of the draft legislation with stakeholders is carried out. Dedicated staffing and budget allocations for review of draft legislation are not available. According to data from the Academy of Public Administration, around 175 public servants at the level of the central government are due to be trained in 2016 to develop and evaluate public policies, and co-ordinate the consultation process.

In **Ukraine**, all national executive authorities, in particular ministries, are per se legal and analytical units. It is their task to analyse the implementation of legislation and policies in the fields of their responsibility, and to develop draft laws and regulatory frameworks. There is no distinct budget for policy analysis within the general budget of the ministries. Public consultations are conducted by the units responsible for the drafting of the acts, in co-operation with the public relations departments. The budgets of the executive authorities for the consultation costs are not specified in the overall budgets. The Cabinet of Ministers' Secretariat delivers annual trainings for PR divisions of national authorities and regional state administrations (at least 100 civil servants). Trainings for district state administrations on participatory policymaking and public consultations processes were held in 2013-2015, and were planned for 2016 as well. Regional and local authorities deliver such trainings on a case-to-case basis.

III. COMPARISON OF PARTICIPATORY POLICYMAKING

The Participatory Policymaking Process in the Six Eastern Partnership Countries			
Armenia 	Policy Cycle Stage	Forms of Consultation	Participants Invited (to at least one form of consultation)
	Green Paper (occasional/ad hoc)	<ul style="list-style-type: none"> ▪ Expert working groups or taskforces ▪ Roundtables ▪ Online consultations ▪ Public hearings 	open to all
	First draft of law	<ul style="list-style-type: none"> ▪ Expert working groups or taskforces ▪ Online consultations ▪ Public hearings 	selected experts, interest groups and NGOs
	Parliamentary review	<ul style="list-style-type: none"> ▪ Expert working groups or taskforces ▪ Roundtables ▪ Committee hearings 	selected experts, interest groups and NGOs
	Review of parliamentary committee amendments	<ul style="list-style-type: none"> ▪ Expert working groups or taskforces ▪ Roundtables ▪ Public hearings 	selected experts, interest groups and NGOs
Azerbaijan 	Policy Cycle Stage	Forms of Consultation	Participants Invited (to at least one form of consultation)
	Green Paper (standard practice, but not required)	<ul style="list-style-type: none"> ▪ Expert working groups or taskforces ▪ Roundtables 	selected NGOs and interest groups
	First draft of law	<ul style="list-style-type: none"> ▪ Expert working groups or taskforces ▪ Online consultations 	selected NGOs, general public
	Parliamentary review	<ul style="list-style-type: none"> ▪ Expert working groups or taskforces ▪ Online consultations ▪ Roundtables ▪ Committee hearings 	selected NGOs and experts, general public
	Review of parliamentary committee amendments	<ul style="list-style-type: none"> ▪ Expert working groups or taskforces ▪ Roundtables ▪ Online consultations 	selected NGOs and experts, general public
Belarus 	Policy Cycle Stage	Forms of Consultation	Participants Invited (to at least one form of consultation)
	Green Paper (rare, only isolated cases)	- None -	
	First draft of law	<ul style="list-style-type: none"> ▪ Expert working groups or taskforces ▪ Roundtables ▪ Online consultations ▪ Public hearings (rare) 	selected experts, interest groups, NGOs, general public
	Parliamentary review	- None -	
	Review of parliamentary committee amendments	- None -	

III. COMPARISON OF PARTICIPATORY POLICYMAKING

Georgia 	Policy Cycle Stage	Forms of Consultation	Participants Invited (to at least one form of consultation)
	Green Paper (rare)	- None -	
	First draft of law	<ul style="list-style-type: none"> ▪ Expert working groups or taskforces ▪ Public hearings 	selected business associations, open to all NGOs
	Parliamentary review	<ul style="list-style-type: none"> ▪ Expert working groups or taskforces ▪ Committee hearings 	open to all NGOs, selected NGOs
	Review of parliamentary committee amendments	- None -	
Republic of Moldova 	Policy Cycle Stage	Forms of Consultation	Participants Invited (to at least one form of consultation)
	Green Paper (rare)	<ul style="list-style-type: none"> ▪ Expert working groups or taskforces ▪ Roundtables ▪ Public hearings ▪ Public debates ▪ Opinion polls and referenda 	selected experts, open to all business associations, open to all interest groups, open to all NGOs, general public
	First draft of law	<ul style="list-style-type: none"> ▪ Expert working groups or taskforces ▪ Roundtables ▪ Public hearings ▪ Public debates ▪ Opinion polls and referenda 	selected experts, selected business associations, selected interest groups, selected NGOs, open to all business associations, open to all interest groups, open to all NGOs, general public
	Parliamentary review	<ul style="list-style-type: none"> ▪ Expert working groups or taskforces ▪ Online consultations 	selected experts, open to all business associations, all interest groups, all NGOs, general public
	Review of parliamentary committee amendments	- None -	
Ukraine 	Policy Cycle Stage	Forms of Consultation	Participants Invited (to at least one form of consultation)
	Green Paper (occasional/ad hoc)	<ul style="list-style-type: none"> ▪ Public hearings 	selected experts, selected business associations, selected interest groups
	First draft of law	<ul style="list-style-type: none"> ▪ Expert working groups or taskforces ▪ Roundtables ▪ Online consultations 	selected experts, selected business associations, selected interest groups, selected NGOs, general public
	Parliamentary review	<ul style="list-style-type: none"> ▪ Expert working groups or taskforces ▪ Roundtables ▪ Committee hearings 	selected experts, selected business associations, selected interest groups, selected NGOs, open to all interest groups
	Review of parliamentary committee amendments	<ul style="list-style-type: none"> ▪ Public hearings ▪ Committee meetings 	general public, selected experts, selected business associations

IV. ASSESSMENT OF LAWS AND PROCEDURES

ARMENIA

i. Access to Information

- *Freedom of information legislation*

There is a Law on Freedom of Information, applicable at national, regional and local level, the coverage of which includes organisations supported by the state budget and other organisations of public importance (as set out in Article 3 of the law) and their officials.⁴ Additional legislation regulates disclosure by particular government agencies.

In response to a request for information, up to 10 pages are provided free of charge by local government and state bodies. When the information totals more than 10 pages, it is subject to copying costs. However, information from the State Real Estate Cadastre,⁵ from the State Archive, from the courts, from the police and law-enforcement associated agencies incurs a special price according to the Law on State Duty, starting from € 2 per page (according to the law, this fee is a tax).

According to Article 9 of the Law on Freedom of Information, an answer to a written inquiry should be provided within five days if the information has already been published, or within 30 days after the application is filed if additional work is required to assemble the information sought.

- *Disclosure of public finances and legislative proposals*

The Law on State Budget requires the publication of detailed annual budgets and expenditures for each state agency, and for local government authorities. In practice, general information is published, but not detailed budgets and expenditure reports.

⁴ http://www.foi.am/u_files/file/legislation/FOLeng.pdf

⁵ According to the decision of the Constitutional Court 1256, dated 26 February 2016, the charging of fees for providing information about the requester's own property from the State Real Estate Cadastre is unconstitutional, and the Law on the Registration of Property should be changed by 1 November 2016.

Since a government decision (No. 1521) in 2013, the websites of all state bodies should include a section on policies and legislation, but the drafts of proposed laws and policies are not regularly published before being signed into law (links to the different state websites are available at <http://gov.am/en/links/>).

ii. Direct Democracy

▪ *Direct elections*

While the Parliament is directly elected, following a constitutional change approved by referendum in December 2015, the President will no longer be directly elected, but instead will henceforth be elected by the Parliament. The Constitution provides for both direct and indirect elections of local government bodies.

District and city councils are elected directly. However, according to Article 125 of the draft Electoral Code, which – if passed – would enter into force in June 2016, the mayors of three cities in Armenia (Yerevan, Gyumri, and Vanadzor) would no longer be directly elected, but instead appointed by city councils. The governors of regional authorities (*marz*) are appointed and dismissed by the Government, not by direct elections.

▪ *National and local referenda*

The law provides for referenda at national and local level.⁶ Referenda are not consultative, and their results are binding. Referenda on constitutional changes (such as that on the election of the President in 2015) can be submitted for decision by referendum upon the initiative of the President or Parliament. Referenda on the adoption of laws can be initiated by either the Parliament or Government, and referenda on important state issues can be initiated by the Government. A national referendum cannot be initiated by citizens' signatures.

A local referendum posing questions of local jurisdiction can be initiated by the head of the local authority or by the decision of the local council, or can be organised if a petition is submitted with the signatures of at least 5% of the

⁶ <http://www.arlis.am/>

eligible voting population in the locality. (The new Electoral Code – if passed – is expected to introduce changes concerning referenda in 2016.)

- *Public initiatives and petitions*

There are no legal provisions for public initiatives and petitions at either national or local level.

iii. Laws and Procedures to Facilitate Participatory Policymaking

- *Open Government Partnership*

Armenia joined the Open Government Partnership (OGP) in 2011, and its second Action Plan,⁷ submitted in 2014, includes as one of its four focus areas the “promotion of public participation”. Within this focus, Armenia established *Smart Municipality*, an initiative to conduct small-scale surveys in 10 communities, consulting citizens about possible solutions to problems in their communities (the initiative earned Armenia the Open Government Award 2015).⁸ Within the framework of its OGP Action Plan, the Government has also made efforts to establish the practice of open, transparent and inclusive policy- and law-making, and to conduct awareness-raising activities among the public about the law-making process.

Civil society therefore has a significant window within the framework of the OGP to engage in the policymaking process. For the development of the second OGP Action Plan, the Government organised working meetings with CSOs. Seven CSO proposals were included in the Action Plan.⁹ Open data commitments are made by the Government within the OGP Action Plan commitments.¹⁰

⁷ <http://www.ogp.am/hy/plan/>

⁸ <http://www.opengovpartnership.org/sites/default/files/OGPAwardsBooklet2015.pdf>

⁹ [http://ogp.am/u_files/file/Chyndunman%20ampopatert\(1\).pdf](http://ogp.am/u_files/file/Chyndunman%20ampopatert(1).pdf)

¹⁰ http://ogp.am/u_files/file/commitments_OGP_AP2_ARM.pdf, http://ogp.am/u_files/file/Armenia's%20OGP%20second%20action%20plan%202014-2016_ENG.pdf

- *Green Papers*

While expert assessment of proposed legislation is carried out by government bodies (which also conduct or commission the mandatory regulatory impact assessment), there is no mandatory practice of issuing Green Papers, setting out different options and scenarios, before any legislation is drafted, so in both the legal requirements and standard practice the public is informed and public discussions launched only after the draft laws have been completed. There are exceptions, when Green Papers are published on an ad hoc basis.

- *Public consultations on draft laws and policies*

There is a requirement in the Law On Legal Acts for the Government or legislators to hold public consultations with civil society, expert bodies, or other stakeholders, with a view to assessing public opinion, seeking alternative proposals, and evaluating the risks and financial costs of the proposed initiative. The Public Council adjunct to the Government is the main body co-ordinating consultations between the Government and civil society on policy and legislation. There are no such bodies at the local level.

There is no scope for complaints in the event of non-consultation or non-publication of draft laws. In theory, citizens can challenge such omissions on the part of the Government under the Administrative Procedural Code, but this has never happened.

The Law on Local Government requires authorities to inform the local population seven days before each session of the local council, and local citizens may attend the session. However, the law does not oblige authorities to request professional opinions or comments from the local population.

The Guide to the Methodology of the Elaboration of Draft Legal Acts¹¹ applies to all state, local and regional bodies. The guidelines allow for the creation of working groups and committees with the participation of all relevant stakeholders in the elaboration of the draft laws after the first draft has been published, but there is no participatory process at the time of drafting the main concepts of the laws. Parliamentary committees sometimes consult civil society and independent experts when considering draft laws.

¹¹ <http://www.parliament.am/library/books/iravakan%20akteri%20naxagceri%20mshakman%20metodakan%20cucumner.pdf>

- *Dialogue and partnership mechanisms/forums*

There are neither procedures for, nor experience of, participatory budget planning; nor are there procedures for public participation in planning¹². The legal regulations require the organisation of public discussions around draft laws and policies with all interested individuals and organisations, but there is no legally guaranteed role for civil society in the consultation process around new policies and legislation at national, regional or local level. While the Guide to the Methodology of the Elaboration of Draft Legal Acts includes general guidance on the selection of participants in public discussions, it does not specify a role for civil society.

Just as draft laws are not always published, public hearings and roundtable discussions often do not take place at all. Ministries that sometimes hold public hearings do not do so as a matter of standard practice. Usually, the hearing is not announced to the public in advance, only certain NGOs active in the field of the particular law or regulation are invited, and the hearing is announced only after it has taken place, alongside any outcomes, such as recommendations, that arose from it. Public hearings do not take place at the local level.

- *Advance notice and feedback on draft initiatives*

Although the Guide to the Methodology of the Elaboration of Draft Legal Acts prescribes 15 days after online publication of draft laws for allowing comments and recommendations, in reality each ministry, agency or local authority sets its own deadlines.

There is no legal requirement for giving written feedback on which recommendations were or were not accepted, and in practice no feedback is given.

- *Monitoring and evaluation*

There is no requirement for monitoring and evaluation of the implementation of legislation beyond the internal financial audit requirements.

¹² <http://parliament.am/legislation.php?sel=show&ID=1503&lang=eng>

iv. Resources and Enabling Environment

- *Civil society freedoms*

There is overall freedom of expression for CSOs in Armenia, and there are no significant impediments to them securing funding from individual, corporate, or foreign donors to conduct evaluation and monitoring of draft legislation or the implementation of legislation.

- *State budgets and staffing for participatory policymaking*

Some, but not all, government ministries have policy staff and resources supported through international funding sources. The Ministry of Justice has budget allocations dedicated to strategic policy formulation and drafting of legislation. Expert assessment and regulatory impact assessment take place inside and outside the ministries. However, there are no budget allocations for co-ordination of public dialogue and consultations around draft legislation, and no ministry staff is assigned responsibility for public consultations. At the local level, public dialogue is organised by the secretariat of the head of the local authority.

According to the law, the Government implements public policy and the determination of policy priorities. Performance of this public policy function, and of the elaboration of draft legislation related to its sphere of activities and its functions, is the obligation of each executive body. As a result, these functions are a core part of the responsibilities of ministries, so there is no distinct financial allocation from the state budget for activities such as policymaking or drafting of legislation.

The transparency of the policymaking and legislation-drafting processes is prescribed by law. According to the Law on Legal Acts, the adoption of a legal act should be made public, and the government body that elaborates the draft should organise public discussions on the draft. According to Government Decree No. 296-n of 2010, the organisation and implementation of public discussion are financed from the annual budget of the government agency that elaborated the draft. The use of other sources is permissible. This means that necessary public discussions are organised from the resources of the respective agency from its annual budget, but no dedicated or additional funding is allocated for the public consultation parts of the policymaking and law-drafting process.

Although each civil servant is required to undergo training every three years, there is no legal requirement for civil servants to undergo special training on the processes of public consultation in policymaking.¹³ A range of trainings in policymaking has been conducted for CSOs (for instance, by Transparency International-Armenia/USAID and Oxfam in 2014-15).

The Law on Public Service prescribes trainings for civil servants to increase their effectiveness and develop their skills in performing their functions. The costs of the trainings are covered from the state budget, local budget and other sources. However, there is no breakdown of how many civil servants have participated in particular trainings, such as on policymaking and legislation-drafting; nor are there specific budget allocations for training in particular areas.

According to decision No. 915 of the Civil Service Council, an approved “Impact assessment” project includes training to enhance legislation-drafting capabilities. The trainings are organised by the Legal Institute within the Ministry of Justice with financing from the state budget, and in this instance figures are available on the number of civil servants who have participated in the training (see following table):

¹³ http://www.parliament.am/law_docs/271201HO272eng.pdf?lang=eng

Number of Civil Servants who Participated in Trainings in 2013, 2014 and 2015			
Government Agency	2013	2014	2015
Staff of President	0	0	3
Government/Cabinet Office	1	2	1
Ministry of Health	0	22	2
Ministry of Justice	9	5	4
Ministry of Foreign Affairs	1	1	0
Ministry of Environment	5	7	0
Ministry of Energy and Natural Resources	0	3	0
Ministry of Education	0	2	0
State Committee under Ministry of Education	0	1	0
Ministry of Labour and Social Affairs	0	6	0
State Social Insurance Service	0	3	0
Ministry of Local Government	0	2	0
Ministry of Transport and Communication	1	0	2
Ministry of Urbanisation	3	0	0
Ministry of Culture	1	5	1
Ministry of Emergency Situations	10	2	0
Ministry of Finance	0	11	12
Ministry of Economy	5	8	0
State Committee of Cadastre	5	10	0
General Department of Civil Aviation	2	0	0
Regional Administration of Aaragacotn region	1	0	0
Regional Administration of Ararat region	1	1	2
Regional Administration of Armavir region	1	1	0
Regional Administration of Gegharkunik region	0	0	1
Regional Administration of Lori region	0	0	2
Regional Administration of Kotayk region	1	0	1
Regional Administration of Shirak region	2	2	0
Regional Administration of Syunik region	0	0	1
Regional Administration of Tavush region	0	1	0
National Statistical Service	1	15	19
Public Services Regulatory Commission	0	0	3
Civil Service Commission	3	0	0
State Commission on Food Safety	0	3	2
Ministry of Local Government and Emergency Situations	0	0	6
Control Chamber (Supreme Audit Office)	0	0	4
Total	53	113	66

Source: Ministry of Justice

The Participatory Policymaking Process in ARMENIA – Policy Cycle Stages		
Green Paper prior to drafting legislation	Forms of consultation	Participants invited to consultation
The preparation of Green Papers is: <i>Occasional/ad hoc</i>	Expert working groups or taskforces	<ul style="list-style-type: none"> ▪ selected experts ▪ selected business associations ▪ government-selected interest groups ▪ open invitation to all interest groups ▪ government-selected NGOs
When a Green Paper has been prepared, publication of the Green Paper is: <i>Occasional/ad hoc</i>	Roundtables	<ul style="list-style-type: none"> ▪ selected experts ▪ selected business associations ▪ government-selected interest groups ▪ open invitation to all interest groups ▪ government-selected NGOs
If there is a Green Paper, is a timeframe prescribed from publication to deadline for feedback and recommendations? <i>No</i>	(occasionally) Online consultations inviting input	<ul style="list-style-type: none"> ▪ selected experts ▪ selected business associations ▪ government-selected NGOs
Are feedback reports published concerning Green Papers, explaining which recommendations from whom were accepted/not accepted, and why? <i>No</i>	Public hearings	<ul style="list-style-type: none"> ▪ selected experts ▪ selected business associations ▪ government-selected interest groups ▪ government-selected NGOs

The Participatory Policymaking Process in ARMENIA – Policy Cycle Stages		
First draft of legislation	Forms of consultation	Participants invited to consultation
When a draft law has been prepared, the publication of the draft law is: <i>Mandatory</i>	Expert working groups or taskforces	<ul style="list-style-type: none"> ▪ selected experts ▪ selected business associations ▪ government-selected interest groups ▪ government-selected NGOs
Is a timeframe prescribed from publication to deadline for feedback and recommendations? <i>No (although the Guide to the Methodology and Elaboration of Draft Legal Acts prescribes 15 days)</i>	Public hearings	<ul style="list-style-type: none"> ▪ selected experts ▪ selected business associations ▪ government-selected interest groups ▪ government-selected NGOs
Are feedback reports published, explaining which recommendations from whom were accepted/not accepted, and why? <i>No</i>	Agencies send the draft via post or email, and request comments	<ul style="list-style-type: none"> ▪ selected experts ▪ selected business associations ▪ government-selected interest groups ▪ government-selected NGOs
Parliamentary review of legislation	Forms of consultation	Participants invited to consultation
Are parliamentary committee meetings reviewing draft laws announced in advance with the public and interested parties invited to attend? <i>Yes</i>	Expert working groups or taskforces	<ul style="list-style-type: none"> ▪ selected experts ▪ selected business associations ▪ government-selected interest groups ▪ government-selected NGOs
Is a timeframe provided to announce the review meeting with advance notice? <i>No</i>	Roundtables	<ul style="list-style-type: none"> ▪ selected experts ▪ selected business associations ▪ government-selected interest groups ▪ government-selected NGOs
Is a timeframe prescribed from launch of parliamentary review to deadline for feedback and recommendations? <i>No</i>	Committee hearings	<ul style="list-style-type: none"> ▪ selected experts ▪ selected business associations ▪ government-selected interest groups ▪ government-selected NGOs
Are feedback reports published, explaining which recommendations from whom were accepted/not accepted, and why? <i>No</i>		

The Participatory Policymaking Process in ARMENIA – Policy Cycle Stages		
Review of parliamentary committee amendments	Forms of consultation	Participants invited to consultation
<p>When a draft law has been considered by a parliamentary committee, the publication of the committee’s proposed amendments is: <i>Rare</i></p> <p>Is a timeframe prescribed from publication of committee amendments to deadline for feedback and recommendations before the legislation goes to a final vote in parliament? <i>Yes</i></p> <p>If so, how long do interested parties have to provide their input? <i>30 days</i></p> <p>Are feedback reports published, explaining which recommendations from whom were accepted/not accepted, and why? <i>No</i></p>	Expert working groups or taskforces	<ul style="list-style-type: none"> ▪ selected experts ▪ selected business associations ▪ government-selected interest groups ▪ government-selected NGOs
	Roundtables	<ul style="list-style-type: none"> ▪ selected experts ▪ selected business associations ▪ government-selected interest groups ▪ government-selected NGOs
	Public hearings	<ul style="list-style-type: none"> ▪ selected experts ▪ selected business associations ▪ government-selected interest groups ▪ open invitation to all interest groups ▪ government-selected NGOs

AZERBAIJAN

i. Access to Information

- *Freedom of information legislation*

Azerbaijan has both a Law on Access to Information and a law dedicated to access to information on the environment. The Law on Access to Information covers all public authorities and other entities that perform public functions, natural monopolies, and local government authorities and municipalities. Information is provided free of charge, except for information requests that contain a broad range of content and require indepth research and time-consuming analysis, and other categories of information covered by a Cabinet of Ministers Decree of 26 July 2012.

According to the Law on Access to Information (Article 24.1), a request for information should be answered as soon as possible, and not later than in seven working days. If the request is for a complex amount of information, requiring additional time for preparation of the response, or to analyse extensive documentation, the information provider can extend the response time by an additional seven working days. The Ombudsman function includes guardianship of rights to access information.¹⁴

- *Disclosure of public finances and legislative proposals*

According to Article 20 of the Law on the Budget System, detailed information should be published and submitted to Parliament on a monthly basis and should include information for each quarter regarding income and expenditure by the executive branch of government. According to the Law on Access to Information and the Law on the Budget System, the relevant information regarding budgets, expenditure, income, and debt should be available to the public.

Legislative activities and draft policy papers are subject to discussion and further amendments by both the Government and civil society. Draft laws, regulations, and policies are published on the official website of the Parliament, **www**.

¹⁴ http://www.stat.gov.az/menu/3/Legislation/information_rules_en.pdf, http://www.azerbaijan.az/portal/Society/MassMedia/massMedia_e.html

meclis.gov.az, where visitors can leave comments and suggestions in advance of Parliament's debate around, and the subsequent adoption of, the laws. In addition, the internal statute of Parliament allows for draft laws to be put forward for public discussion after the first reading of the draft law in Parliament.

Although draft laws and policies can be discussed on the online portal of Parliament prior to adoption, there is no requirement that the Parliament should take into consideration suggestions from civil society or individuals. According to the Law on Public Participation, laws and policies should be discussed by Public Councils¹⁵ at the level of central and local authorities, and also at the municipal level.

ii. Direct Democracy

▪ *Direct elections*

There are direct elections for the President, the Parliament, and municipal councils, while the heads of the executive branches at local level are appointed and dismissed by the President. Azerbaijan has a duplicating system of local governance, whereby the local branches of the executive authority implement the main policies and programmes, while municipalities play an additional role. Planned reforms include the transfer of all local and city governance to the municipal level.

▪ *National and local referenda*

Legally binding referenda can be held at the national level upon the decision of the Parliament on one of two issues: a) changes to the state border; and b) changes to the Constitution. According to the Constitution, 40,000 citizens with voting rights have the right to make legislative proposals; however, they don't have the right to initiate a national referendum. Local referenda can be held in municipalities at the initiative of the local council or at the request of citizens, although the law does not define the procedures for initiating local referenda nor prescribe whether they are binding or consultative in nature.¹⁶

¹⁵ Civil society representatives can be nominated to serve on Public Councils; see **iii. Laws and Procedures to Facilitate Participatory Policymaking**

¹⁶ http://azerbaijan.az/portal/General/Constitution/doc/constitution_e.pdf

- *Public initiatives and petitions*

Citizens do not have the right to recall elected representatives, such as Members of Parliament or elected members of municipal councils but, according to Article 57 of the Constitution, they have the right to submit individual and collective written applications to state bodies. The right to submit a “group appeal” can be considered as the right to petition, and this provision is enshrined in the Law on Procedures for Review of Appeals by Citizens. The authorities are required to respond to each appeal “in an established order and term”.

In terms of collective public initiatives by citizens, 40,000 eligible voting citizens have the right to initiate draft laws. However, according to Article 96 of the Constitution, the manner in which 40,000 citizens exercise their right to initiate legislation shall be defined by law. As of April 2016, the law to regulate the procedures for this initiative had not yet been adopted.

iii. Laws and Procedures to Facilitate Participatory Policymaking

- *Open Government Partnership*

Azerbaijan is a member of the Open Government Partnership. According to the country’s OGP Action Plan, in order to ensure participatory policymaking, the state authorities should involve CSOs in decision-making and law-making processes and related discussions. Furthermore, it is recommended that consultation councils and networks should be established to enable broad public participation of CSOs.

- *Green Papers*

There is a non-binding recommendation to ministries to issue Green Papers before drafting legislation, but the majority of ministries do not follow this recommendation.

- *Public consultations on draft laws and policies*

The National Strategy for Open Government sets out standards and procedures governing the involvement of CSOs and other stakeholders in policy and decision-making processes. This applies to all central and local authorities and municipalities. CSOs have a right to select the members of Public Councils and to

participate in their work, although in practice Public Councils are formed by the relevant executive authority without open competition.¹⁷

The Law on Public Participation, which was passed in 2014, allows civil society participation in decision-making and monitoring mechanisms. According to Article 98 of the Constitution, draft laws can be initiated by the President, Members of Parliament, the Supreme Court, the Supreme Court of Nakhcivan Autonomous Republic, or 40,000 eligible voting citizens. Ministries do not have the right to propose a draft law independently; instead, it must be proposed through a Presidential initiative.

Legislation requires consultation between ministries, and parliamentary review includes CSO participation in committees reviewing legislation. A tripartite agreement governs collective negotiations between the Government, the National Confederation of Employers and the Trade Unions Confederation with the purpose of regulation of labour relations.¹⁸

Draft laws can be consulted on the web portal of Parliament, but analysis about the draft laws is sometimes available also from relevant ministries or agencies. According to Article 96 of the Constitution, the Parliament Secretariat must allocate a special section of the Parliament's website for public discussions of draft laws submitted to Parliament. Within three days of receipt of the draft law by the relevant parliamentary committee, the Secretariat places the draft law on the website, along with information about the initiator, the registration number of the draft law, the committee(s) to which it has been sent, the schedule and location of public hearings, the duration and rules for conducting public discussion, and the rules for submission of opinions, recommendations, and proposals. The Secretariat should subsequently inform the public of the results of consideration of the submitted opinions, recommendations, and proposals, and publish the updated draft law after the first and second readings.

A new draft law, prepared by various NGOs and submitted by the Council on State Support to NGOs, is now awaiting consideration by the Parliament. Furthermore,

¹⁷ According to Chapter II of the Law on Public Participation, a Public Council consists of 5-15 members elected by CSOs. The term of office of a Public Council is two years. Central and local executive authorities and local government bodies announce on their websites or through other means the call for nomination of candidates to a Public Council: the period for nomination and registration of candidates cannot be shorter than 20 working days. Each CSO can nominate only one candidate to membership of a Public Council. Within a month after the completion of nominations, elections are held. CSOs that have not nominated candidates are also able to participate in the election of members.

¹⁸ For more information, see www.contact.az/docs/2014/Economics&Finance/080400085983en.htm#.VxGr9JB942w

a memorandum was signed between the Parliament and the Council on State Support to NGOs.¹⁹ According to the Memorandum, CSOs will co-operate with the relevant Parliament Committee on preparation of draft laws, and on conducting awareness-raising activities about newly adopted laws. However, it is anticipated that only pro-government NGOs will participate in this initiative.

The notion of “complaints” is defined by the Law on Public Participation, but the law does not stipulate a complaint mechanism or procedure in the event of non-compliance with requirements. While the Law on Procedures for Review of Appeals by Citizens provides such a mechanisms for citizens in order to appeal decisions to the courts, there are no clear procedures in relation to CSOs’ consultations with the Government. Complaints concerning non-compliance with consultation requirements are limited to raising concerns during public debates and meetings between representatives of the Government and civil society.

▪ *Dialogue and partnership mechanisms/forums*

There are no procedures facilitating and implementing participatory budget planning at national level, but the Law about the Status of Municipalities has a requirement for public participation in the decision-making process at the local level. In practice, public hearings and town-hall meetings are held during the budget planning process.

The Law on Public Participation regulates procedures facilitating and implementing public participation in planning and impact assessments of policy proposals. Each executive authority and municipality is obliged to establish committees of CSOs (Public Councils) and discuss solutions with the public. The law provides non-binding provisions on the involvement of CSOs in the consultative policymaking process.

According to the Law on Public Participation, CSOs can participate only within the newly established Public Councils. There is no mandatory requirement for ministries to involve CSOs in the consultation process other than through Public Councils and, at the local level, public participation is confined to the possibility to join local Public Councils. The Council on State Support to NGOs, which includes three NGO representatives, co-ordinates consultations between the Government and civil society. Based in Baku, the Council operates country-wide.

¹⁹ <http://cssn.gov.az/en/>

The rules for conducting public hearings on draft laws are defined by the internal regulations of the Parliament. There are no established procedures for the selection and invitation of CSOs to participate in the discussions around draft laws. In practice, selected CSOs are invited by the Council on State Support to NGOs.

- *Advance notice and feedback on draft initiatives*

Public hearings and public discussions on draft legal acts, prepared by central and local executive authorities and local government bodies, are conducted according to the rules defined by the relevant executive authority body. The authorities are required to provide deadlines for CSOs and the public to provide comments on draft policies and draft laws, but there is no requirement for ministries or other authorities to publish written feedback on the consultation process that would explain which recommendations have or have not been accepted, and why.

- *Monitoring and evaluation*

Monitoring and evaluation of implementation of policies is incorporated into the Government's programmes, while CSOs carry out independent monitoring. In practice, neither the Government nor the Parliament conducts monitoring of implementation.

iv. Resources and Enabling Environment

- *Civil society freedoms*

The law on CSOs governs the freedom of CSOs to monitor policymaking and policy implementation. There are restrictions on access to foreign funding for these activities. According to the Law on Non-Governmental Organisations, foreign donors have to be registered in Azerbaijan in order to fund CSOs.

In addition, the funding of each project by a foreign donor has to be registered on a case-by-case basis. A selective approach is applied: the Ministry of Justice routinely rejects projects of CSOs working on human rights and democracy issues, while in some instances the Government selects appropriate projects and permits them to be registered.

- *State budgets and staffing for participatory policymaking*

The Civil Service Commission includes the participation of NGOs as a mandatory feature of education of civil servants,²⁰ although there is no official data on the frequency of such trainings and in which regions they are held.

According to the Civil Service Commission, there is no dedicated budget line for policymaking and law-drafting activities or the corresponding staffing. Although the Commission does not publish information about training of public officials on the process of drafting policies and legislations, or on consultative policymaking processes, in 2013 the Commission conducted a series of trainings for civil servants on the implementation of legislation on the civil service, code of conduct, prevention of conflicts of interest, and anti-corruption measures. It has established a Training Centre within the project, “Support to the Civil Service Commission under the President of the Republic of Azerbaijan in Implementation of the Institutional Reform Plan within the Comprehensive Institution Building Programme”, which is a part of Institutional Reform Plan 3 (IRP3) between the EU and Azerbaijan, which is jointly funded by the European Commission, the United Nations Development Programme (UNDP), and the Government of Azerbaijan.

²⁰ <http://dqm.gov.az/>

The Participatory Policymaking Process in AZERBAIJAN – Policy Cycle Stages		
Green Paper prior to drafting legislation	Forms of consultation	Participants invited to consultation
<p>The preparation of Green Papers is: <i>Standard practice, but not required</i></p> <p>When a Green Paper has been prepared, the publication of the Green Paper is: <i>Standard practice, but not required</i></p> <p>If there is a Green Paper, is a timeframe prescribed from publication to deadline for feedback and recommendations? <i>No</i></p> <p>Are feedback reports published concerning Green Papers, explaining which recommendations from whom were accepted/ not accepted, and why? <i>No</i></p>	Expert working groups or taskforces	▪ government-selected NGOs
	Roundtables	▪ government-selected interest groups
First draft of legislation	Forms of consultation	Participants invited to consultation
<p>When a draft law has been prepared, the publication of the draft law is: <i>Mandatory</i></p> <p>Is a timeframe prescribed from publication to deadline for feedback and recommendations? <i>No</i></p> <p>Are feedback reports published, explaining which recommendations from whom were accepted/not accepted, and why? <i>No</i></p>	Expert working groups or taskforces	▪ government-selected NGOs
	Online consultations inviting input	▪ general public

The Participatory Policymaking Process in AZERBAIJAN – Policy Cycle Stages		
Parliamentary review of legislation	Forms of consultation	Participants invited to consultation
Are parliamentary committee meetings reviewing draft laws announced in advance with the public and interested parties invited to attend? Yes	Expert working groups or taskforces	▪ government-selected NGOs
	Roundtables	▪ selected experts
Is a timeframe provided to announce the review meeting with advance notice? No	Online consultations inviting input	▪ general public
Is a timeframe prescribed from launch of parliamentary review to deadline for feedback and recommendations? Yes	Committee hearings	▪ selected experts
If so, how long do interested parties have to provide their input? 10 days		
Are feedback reports published, explaining which recommendations from whom were accepted/not accepted, and why? No		
Review of parliamentary committee amendments	Forms of consultation	Participants invited to consultation
When a draft law has been considered by a parliamentary committee, the publication of the committee’s proposed amendments is: <i>Mandatory</i>	Expert working groups or taskforces	▪ selected experts
	Roundtables	▪ selected experts ▪ government-selected NGOs
Is a timeframe prescribed from publication of committee amendments to deadline for feedback and recommendations before the legislation goes to a final vote in parliament? No (there is no timeframe, but in theory feedback can be submitted right up until the final vote on the third reading in parliament)	Online consultations inviting input	▪ general public
Are feedback reports published, explaining which recommendations from whom were accepted/not accepted, and why? No		

BELARUS

i. Access to Information

- *Freedom of information legislation*

The Constitution guarantees access to “timely information on the activities of state bodies, public associations, political, economic, cultural and international life, and the environment”.²¹ All state bodies and public officials are obliged to provide citizens with information. Information of a non-commercial nature is, as a rule, provided free of charge, and the legislation stipulates that requests should be answered within 15 days and one month. Article 21 of the Law on Information, Informatisation and Information Protection of 10 November 2008 lists the grounds for non-provision of public information. The exemptions include instances where the information requested is not directly related to the protection and rights and legitimate interests of the applicant, thus providing the legal basis for a refusal to disclose information that is in the public interest.

- *Disclosure of public finances and legislative proposals*

Since budgets have to be approved by regulatory acts, there is a statutory obligation to publish annual budgets (but not expenditure statements) at national and local level, but in practice only very general information is published.²² Only the state budget, once adopted, the annual report on the implementation of the state budget and, more recently, a report on the implementation of the budget of the city of Minsk, are in the public domain. Decisions on local budgets and their execution are available in the archive system, but only for a fee.

A Council of Ministers decision regulates the functioning of websites of state bodies, with the aim of providing comprehensive, reliable information.²³ Information about laws and policies is announced on national and regional government websites. However, there is no provision in law for Green Papers. In accordance with Presidential Decree No. 105 About the Database of the Republic of Belarus Draft Laws (24 February 2012), texts of draft laws are placed in the public domain on the National Legal Internet Portal, **pravo.by** (in Belarusian), or **law.by**

²¹ www.pravo.by/main.aspx?guid=3871&p0=h10800455&p2={NRPA}

²² Article 9 of the Budget Code expressly provides that the national budget should be approved by the law, and local budgets should be approved by the decisions of local councils of deputies. In accordance with Article 62 of the Law on Normative Legal Acts (10 January 2000), normative legal acts shall be officially published.

²³ www.pravo.by/main.aspx?guid=3871&p0=C21000645&p2={NRPA}

(in English). However, they are not accompanied by contextual information about the purpose of the legislative changes, nor data and analysis to inform potentially interested parties about the scope and context of the legislation. Moreover, in some cases, the drafts are not made public, for instance the changes to the draft Electoral Code, introduced in June 2015 before the Presidential elections of 11 October 2015.

ii. Direct Democracy

▪ *Direct elections*

The President is chosen by direct elections. The lower chamber of Parliament, the House of Representatives, is also directly elected, while the upper chamber, the Council of the Republic, is elected by representatives of local councils. The heads of regional executive authorities are appointed and dismissed by the President, and these regional heads then appoint and dismiss the heads of district and city executive authorities in consultation with the President. The heads of local executive authorities are appointed by the deputies of the respective local councils in consultation with the President.²⁴

▪ *National and local referenda*

The Electoral Code allows for both national and local referenda.²⁵ An issue of state or public life can be the subject of a national referendum. An issue of crucial importance for the population of a given local administrative area can be the subject of a local referendum, and the results are then referred to the corresponding local councils, executive and administrative bodies.

A national referendum can be initiated on the President's own initiative or by the President upon the proposal of the House of Representatives and the Council of the Republic if adopted at their separate meetings by a majority vote of each chamber, or upon the proposal of at least 450,000 eligible voting citizens (a total that must include at least 30,000 citizens from each of the provinces and the city of Minsk). The President signs decisions adopted by national referendum, and decisions adopted by referendum may be repealed or amended only by referendum.

²⁴ www.pravo.by/main.aspx?guid=3871&p0=P31100066

²⁵ www.pravo.by/world_of_law/text.asp?RN=hk0000370#&Razdel=VII

Local referenda can be initiated by local authorities or upon the proposal of at least 10% of the eligible voting citizens resident in the locality (this has never happened).

A national referendum cannot be held on the question of the territorial integrity of Belarus, in relation to the election and dismissal of the President, the election or appointment and dismissal of officials, or appointments and dismissals that fall within the competence of the President or Parliament, changes to budgets or tax duties, or questions related to amnesties or pardons. Local referenda likewise cannot cover the appointment or dismissal of officials that fall within the competence of the local executive and administration or its head; nor can local referenda be held on issues of importance for Belarus as a whole, or matters subject to the legislation of Belarus.

In practice, the Central Election Commission (CEC) must first register an initiative group and the wording of the question to be put to referendum. Over the past 20 years, there have been at least five referendum initiatives by opposition parties, but none have passed the stage of initial registration with the CEC.

- *Public initiatives and petitions*

Law No. 411-W on National and Local Assemblies (12 July 2000) sets out the framework for local and national initiatives on important issues of state and public life, including the assessment of the activities of local government. The competent public authorities are obliged to review the initiatives, but the law does not provide for mandatory action based on the initiatives. In practice, there has never been action based on a local or national initiative.

The procedure for submission of, and review of, citizens' petitions is regulated by the Law on Citizens and Legal Entities (18 July 2011). The deadline for receipt of the review is, as a general rule, no more than 15 days. The Law on the Procedure for the Implementation of Legislative Initiatives by Citizens (26 November 2003) governs the right of citizens to propose laws or amendments to existing laws. Although there have been attempts, no such initiative has been implemented.

iii. Laws and Procedures to Facilitate Participatory Policymaking

- *Open Government Partnership*

Belarus is not a member of the Open Government Partnership initiative, and no general legislation governs standards and procedures for civil society participation in policymaking at national or regional levels.

- *Green Papers*

National discussion of projects before legislation has been drafted has taken place in isolated cases, but Green Papers are not standard practice and are rarely published.

- *Public consultations on draft laws and policies*

According to Article 37 of the Constitution, citizens' participation in the affairs of society and state is provided through referenda, the discussion of draft laws, national issues of local importance, and other means specified in law. At the same time, legislation in the fields of entrepreneurship, the environment, youth and social policy establishes the possibility of the participation of non-profit associations in the process of formation of state policy on various issues. This participation can take the form of social and advisory councils, public consultations, parliamentary hearings, public hearings, and public discussions.

Attempts were made to introduce rules on the possibility of creating a Public Council into the development of the draft Law on Non-Commercial Organisations in 2010. However, the bill never reached Parliament. A number of laws, such as the Law on Historical and Cultural Heritage, the Criminal Executive Code, and the Law on Environmental Protection, contain the basis for the establishment of community councils.

There is no government manual outlining the participatory process in the review of draft policies and laws. The drafting of laws is regulated by Presidential Decree No. 359 on Measures to Improve Standards-Related Activities (11 August 2003). The closest to a manual of standards and procedures for participatory policymaking is Presidential Directive No. 4 on the Development of Entrepreneurship and Stimulating Business Activity (31 December 2010), which instructed state administration and other state bodies reporting to the Government, regional

executive authorities, and the Minsk city executive authority to introduce mandatory public discussion of draft legislative acts that could have a significant impact on the business environment, including through the establishment of public consultative or expert councils with the participation of business associations.²⁶

There is no general legislation mandating public consultations around policymaking but, according to Act No. 300-Z on Architectural, Urban Planning and Construction Activities (5 July 2004), there is a requirement to conduct a public debate before decisions are taken by local councils or local executive authorities on the planning and development of human settlements and housing.²⁷ There is no clear commitment to apply such consultations by the various government ministries and local authorities in other areas.

Draft normative acts are co-ordinated between the concerned ministries and departments according to the procedures set out in the Law on Normative and Legal Acts.²⁸ The law does not state that public discussion of a draft law is mandatory, but that it may be initiated if the appropriate law-drafting body decides to hold a public debate. Since 2015, parliamentary committees have been more active in holding public consultations and inviting experts and civil society representatives, but it is still not common practice.

There is a tripartite general agreement, based on the Labour Code and Presidential Decrees No. 278, 15 July 1995, and No. 252, 5 May 1999, defining the position of the social partners on labour relations. But, except for the creation of councils on architecture, urban planning and construction, and those concerning entrepreneurship, there is no provision for consultation in other areas, and there is no law or agency that co-ordinates consultations between civil society and government.

Laws are subject to mandatory legal review and criminological examination, and each law should be accompanied by a feasibility study. However, regulatory impact assessments are not directly mentioned in the legislation, and are not routinely carried out. Procedures for assessing the impact of policies on the population and the environment are enshrined in Law No. 54-W on State Ecological Expertise (9 November 2009). According to the law, for a number of facilities

²⁶ http://president.gov.by/ru/official_documents_ru/view/direktiva-4-ot-31-dekabrja-2010-g-1400/

²⁷ <https://zastroikaby.org/content/zakon-ob-arhitekturnoy-gradostroitelnoy-i-stroitelnoy-deyatelnosti-v-respublike-belarus>

²⁸ <http://www.pravoby.info/docum09/part27/akt27514/page3.htm>

(such as hazardous production lines, mining facilities, and livestock facilities), an environmental impact assessment is mandatory for the project documentation. The impact assessment should be discussed with the public, whose rights and legitimate interests may be affected by the design decisions.

Likewise, the Law on Local Government and Self-Government provides for the participation of citizens in the management of local affairs by means of local assemblies, local referenda, and citizens' participation in budget decisions. In practice, however, these activities do not happen (an exception is the mechanism for complaints and appeals by citizens to government authorities, which does function to some extent).

Although there is no Ombudsman office in Belarus, citizens' complaints submitted to state agencies contribute to the analysis of policies conducted by public authorities. In the case of non-public discussions on the procedures for planning and development of human settlements and housing construction, decisions can be undone, including through the courts.

- *Dialogue and partnership mechanisms/forums*

There are no binding provisions on the involvement of CSOs in the consultative policymaking process at national, regional and/or local level, and clear and transparent selection mechanisms have not been established for inviting CSO representatives to hearings for consultation on legislation. There are no procedures facilitating and implementing participatory budget planning at national, regional or local level.

The Law on Architectural, Urban Planning and Construction Activities requires a public debate to be conducted before the decisions of local councils or local executive administrations on the planning and development of human settlements and housing. Public hearings, online consultations and expert roundtables are not regulated as a whole, and detailed information about such consultations is not usually made public.

The Law on Support of Small and Medium-Sized Enterprises envisages the creation of a Council for Enterprise Development, charged with the development of recommendations for comprehensive state support for non-state forms of ownership of business enterprises, including small and medium-sized businesses, in order to promote competition and co-ordinate the activities of public

associations of entrepreneurs. The law also provides for the creation of councils on business development at the level of local executive and administrative bodies.

The body taking the decision to establish a Public Council, as a rule, regulates the governance of the establishment, objectives, and possible membership of the council. The provisions on Public Councils are not always accessible to the public. This creates a lack of awareness among the public about the existence and activities of various councils, which is reflected in the minimal coverage of activity of Public Councils on the internet. Contact details to council members are not public, and there is a lack of information even on the composition of councils, such as the Public Co-ordinating Ecological Council under the Ministry of Natural Resources and Environmental Protection. A particular weakness in the regulation of community councils is the almost complete absence of documents regulating their activities, for example regulations determining their meetings' agendas, and information about their meetings.²⁹

Article 28 of the Law on Mass Media stipulates that the central government should create a public co-ordinating council in the sphere of mass media, consisting of representatives of state bodies, public associations, the media, and other entities. In line with the resolution of the Council of Ministers No. 1625, which came into effect on 8 February 2009, the council should meet at least every three months. In practice, this provision is not enforced, and the council has been inactive since 2011.

▪ *Advance notice and feedback on draft initiatives*

When public discussions take place, no mandatory provisions are in place or implemented for CSOs and the public to comment and provide feedback on policy drafts, legislative drafts, and regional, municipal or local authority policies or plans. In August 2014, a public discussion was initiated around the draft Law on Combatting Corruption. During the public discussion, which lasted until December 2014, the General Prosecutor received more than 300 responses from the public and interested organisations. Such public discussion takes place in isolated cases, however, as and when decided by the legislative authorities.

Legislation does not require written feedback to be published by the Government or local authorities on which recommendations have or have not been adopted, and why. In practice, such feedback is not given.

²⁹ www.lawtrend.org/freedom-of-association/obshhestvennye-sovety/obshhestvennye-sovety-v-respublike-belarus

- *Monitoring and evaluation*

Public authorities should conduct analyses of the effectiveness of the measures and policies developed. However, there is virtually no place for civil society in these proceedings. Only limited results from such evaluations – usually very general conclusions, but no statistical data or analytical reports – are made public.

iv. Resources and Enabling Environment

- *Civil society freedoms*

While CSOs are entitled to request information from state agencies, and it is theoretically possible to obtain funding for monitoring activities, the Government has created a totally hostile environment towards the activity of CSOs. According to the law, foreign funding is possible only for social purposes specifically mentioned in legislation, or upon agreement with the President's Administration. In practice, consent for the use of foreign funding for formulating policy recommendations or monitoring policy implementation has not been possible.

- *State budgets and staffing for participatory policymaking*

The state budget is not broken down in sufficient detail to ascertain staffing and budget allocations for managing and co-ordinating the policymaking and legislation-drafting processes. These costs are subsumed in the overall staff budgets.

Training and retraining of civil servants is carried out at the Civil Service Institute under the Presidential Academy of Management. The Academy is financed from the state budget, but also attracts grants from international donors. In addition, training courses are run by the National Centre of Legislation and Legal Research and the Ministry of Justice for the staff of legal departments of state bodies.

However, specific figures are not available concerning the training of public officials on the policymaking and legislation-drafting process. There is no indication that there has been specific training for civil servants on participatory policymaking and public consultation processes, and no specific budget allocations are available for the process of participatory dialogue.

Since regulatory impact assessments are not directly mentioned in the legislation, and are not routinely carried out, it is very difficult for civil society to assess the quality and efficiency of the preparatory work on draft legislation. Nevertheless, there have been trainings for CSOs, drawing on other countries' practices.

The Participatory Policymaking Process in BELARUS – Policy Cycle Stages		
Green Paper prior to drafting legislation	Forms of consultation	Participants invited to consultation
<p>The preparation of Green Papers is: <i>Rare (only isolated cases)</i></p> <p>When a Green Paper has been prepared, the publication of the Green Paper is: <i>Rare (only isolated cases)</i></p> <p>If there is a Green Paper, is a timeframe prescribed from publication to deadline for feedback and recommendations? <i>No</i></p> <p>Are feedback reports published concerning Green Papers, explaining which recommendations from whom were accepted/not accepted, and why? <i>No</i></p>	None	
First draft of legislation	Forms of consultation	Participants invited to consultation
<p>When a draft law has been prepared, the publication of the draft law is: <i>Mandatory</i></p> <p>Is a timeframe prescribed from publication to deadline for feedback and recommendations? <i>No</i></p> <p>Are feedback reports published, explaining which recommendations from whom were accepted/not accepted, and why? <i>No</i></p>	Expert working groups or taskforces	<ul style="list-style-type: none"> ▪ selected experts
	Roundtables	<ul style="list-style-type: none"> ▪ selected experts ▪ government-selected interest groups ▪ government-selected NGOs
	Online consultations inviting input	<ul style="list-style-type: none"> ▪ general public
	Public hearings (rarely happen)	<ul style="list-style-type: none"> ▪ general public

The Participatory Policymaking Process in BELARUS – Policy Cycle Stages		
Parliamentary review of legislation	Forms of consultation	Participants invited to consultation
<p>Are parliamentary committee meetings reviewing draft laws announced in advance with the public and interested parties invited to attend? <i>No</i></p> <p>Is a timeframe provided to announce the review meeting with advance notice? <i>No</i></p> <p>Is a timeframe prescribed from launch of parliamentary review to deadline for feedback and recommendations? <i>No</i></p> <p>Are feedback reports published, explaining which recommendations from whom were accepted/not accepted, and why? <i>No</i></p>	None	

The Participatory Policymaking Process in BELARUS – Policy Cycle Stages		
Review of parliamentary committee amendments	Forms of consultation	Participants invited to consultation
<p>When a draft law has been considered by a parliamentary committee, the publication of the committee’s proposed amendments is: <i>Non-existent</i></p> <p>Is a timeframe prescribed from publication of committee amendments to deadline for feedback and recommendations before the legislation goes to a final vote in parliament? <i>No</i></p> <p>Are feedback reports published, explaining which recommendations from whom were accepted/not accepted, and why? <i>No</i></p>	None	

GEORGIA

i. Access to Information

- *Freedom of information legislation*

There is no dedicated freedom of information law, but in the General Administrative Code³⁰ there is a special chapter (III) regulating freedom of information procedures, which covers all ministries and government agencies, and regional and local authorities. The legislation also covers private legal entities in the event that they are funded from national or local public budgets. Furthermore, Georgia's Open Government Partnership (OGP) Action Plan for 2014-2015 includes a commitment to elaborate a freedom of information law in 2015.³¹ A draft was prepared by the Ministry of Justice in 2015, but had not yet been enacted as of 1 April 2016.

In addition, access to information is covered in the Local Government Code. Article 85 of the code stipulates the rights of citizens to access to information at the local level.³²

Under the current legislation, provision of public information at the national, regional (*samkhareo, gubernatori*), or local level is free of charge other than the cost of making copies. The information should be provided promptly, or within no more than 10 days if the request requires retrieval and processing of single and uncorrelated documents of considerable size, or if the information has to be retrieved from, or requires consultation with, a department in another locality or another public institution.

- *Disclosure of public finances and legislative proposals*

According to the law, the state budget forecast and draft are published in the same way as other pieces of draft legislation (since the state budget is introduced in the form of a law). Moreover, the legislation prescribes the whole process of preparing annual and quarterly reports and requires transparency of the whole process. The same regulations apply at the local level for preparing reports on budgets and expenditure.

³⁰ <https://matsne.gov.ge/en/document/view/16270>

³¹ www.opengovpartnership.org/sites/default/files/OGP%20AP%20GEORGIA.pdf

³² <https://matsne.gov.ge/ka/document/view/2244429>

There are different by-laws adopted by different public institutions, including the Office of the President, the Government and different agencies, indicating that public information should be published on their respective websites. The information that must be published includes strategies, policy papers, and action plans. There is no requirement to publish draft laws on government websites. However, draft laws are routinely published on a special page of the Legislative Herald of Georgia, <https://matsne.gov.ge/en/document/search>, the official website where legislation is published.

Observation of these requirements is not consistent at the level of local government.³³

ii. Direct Democracy

▪ *Direct elections*

There are direct elections for the President and national Parliament. Similarly, members of local councils and heads of cities and municipalities are directly elected. The central Government appoints governors (*gubernatori*) of regions (*mkare*).

▪ *National and local referenda*

Non-binding referenda can be held to clarify the opinion of the entire Georgian electorate or its part (local referenda), concerning important governmental issues. Moreover, binding referenda can be held (only at the national level) concerning important governmental issues, including issues identified in international treaties, the issuance of new taxes (on national level), or increasing the maximum tax rate.³⁴ Binding referenda can be initiated by 200,000 eligible voting citizens of Georgia. Upon registration of the referendum with the required signatures, the President is obliged to call a binding referendum within 30 days. Citizens cannot initiate non-binding referenda. There is no legal provision for binding local referenda.

³³ Some work in this regard has been conducted by different donor organisations, and special recommendations were issued for local government authorities, but each local municipality has to decide upon this issue independently, and the practice varies.

³⁴ <https://matsne.gov.ge/ka/document/view/33940>

- *Public initiatives and petitions*

According to the Parliament's Rules of Procedure, citizens (likewise local government bodies) have the right to submit to the Parliament a legislative proposal about the adoption of a new law, or amendments to the law. If the legislative proposal is approved by the corresponding lead parliamentary committee, it should be considered by the Parliament according to the procedure for considering legislative initiatives.

A petition mechanism was established under the Open Government Partnership (OGP) 2014-2015 Action Plan. This obligation envisaged the possibility of the submission of electronic petitions on issues that fall under the competence of the Government. Such petitions would be subject to mandatory consideration by the Government, but the Government did not launch the mechanism (portal) and as of 1 April 2016 the portal (**ichange.ge**) was not yet functioning.

The right to petition, which is covered under the Local Government Code, represents one of the important mechanisms of citizens' engagement at the local level. A petition must be signed by at least 1% of the voters registered in that municipality. The municipality (*Sakrebulo*) is obliged to consider the project within one month from its registration. A nominee appointed by the petition draft's group of initiators enjoys the right to participate in the discussion leading to the voting on the project proposal.

At the national level, legislation explicitly proscribes the recall of parliamentarians through public petitions. At the local level, it is possible to initiate a motion of no confidence in the Mayor (*Gamgebeli*) if a public initiative has the support of at least 20% of voters registered in the corresponding municipality. After the submission of an initiative to the local council, the head of the council places the question on the agenda of the council. After discussions, an initiative can be approved if it has the support of two-thirds of the council. If the request is denied, initiators can make the same request after a period of six months.

Apart from the citizens, the majority of the *Sakrebulo* members also have the right to initiate a motion of no confidence in the Mayor.

iii. Laws and Procedures to Facilitate Participatory Policymaking

- *Open Government Partnership*

Georgia joined the Open Government Partnership in 2011. Its second OGP Action Plan (for 2014-2015) included CSOs as implementing partners for different activities with different state institutions.³⁵ The Parliament of Georgia also joined the OGP in 2015.³⁶ Local municipalities are involved in the implementation of some commitments in the OGP Action Plan for 2014-2015, for example commitment 6(A), “Development of Community Centres”, and commitment 6(B), “Introduce e-Governance in Local Self-Governments”³⁷

In line with commitment 9 of the 2014-2015 OGP Action Plan, an open data portal – **data.gov.ge** – has been created and is being regularly updated.

- *Green Papers*

The publication of Green Papers is not standard practice, and evidence-based policymaking is a challenge in general because, usually, there are no prior in-depth methodological assessments to identify possible socio-political outcomes of the proposed legislation. This challenge is recognised in the Policy Planning System Reform Strategy and Action Plan, adopted by the Government in August 2015.

- *Public consultations on draft laws and policies*

There is no single law that sets out standards and procedures for government engagement of the public and CSOs in policymaking processes, but there are different regulations and norms scattered across different policy documents and legislation that provide possibilities for various stakeholders to become engaged in policy- and decision-making processes through the standard practices of working group consultations and public hearings. Additional regulations, including petitions and local advisory councils, are applicable only at the local authority level.

³⁵ [www.justice.gov.ge/Multimedia%2FFiles%2F08%2Fprinted version – OGP Georgia AP 2014-2015_eng.pdf](http://www.justice.gov.ge/Multimedia%2FFiles%2F08%2Fprinted%2Fversion%20-%20OGP%20Georgia%20AP%202014-2015_eng.pdf)

³⁶ www.parliament.ge/en/gia-mmartvelobis-partniorobis-sakanonmdeblo-giaobis-samushao-djgufis-konferencia/deklaracia-gia-parlamentis-sheaxeb/saqartvelos-parlamenti-gia-mmartvelobis-partniorobas-sheuertda.page

³⁷ www.justice.gov.ge/Ministry/Department/273

As recognised in the Policy Planning System Reform Strategy and Action Plan, there is no strategy or policy manual governing civil society engagement in policymaking at national or local level, and there is no legal requirement to hold public consultations around draft legislation, except in the case of adoption of changes to the constitution.³⁸ There is no guidance on the particular form of consultation. Decisions are taken case by case, based on existing practice.

A particular challenge arises in cases when a piece of legislation is particularly sensitive. In such cases, the speedy adoption of amendments to the law represents a challenge for interested parties to engage due to the restricted timeframe.

There is no structured system for providing comments and sharing opinions or conducting consultations between ministries regarding cross-sectoral legislative initiatives until these initiatives are shared through the Government's internal electronic exchange system. After the initiatives are shared through the system, other ministries have to express their consent or disagreement on the drafts and provide relevant comments.

Moreover, different interagency councils are in place, and there is a general practice that consultations between different ministries on a given piece of legislation are subject to circulation by the ministry that authors the draft law and the gathering of opinions and comments before submission of the draft to the Government as a whole. For example, the Interagency Criminal Council, whose membership comprises different ministries and organisations, is responsible for working on criminal justice reform issues.

Parliamentary committee hearings are open to the public, and experts and representatives of different organisations are invited to express opinions about draft laws, although the committees are not obliged to engage the public in discussion of draft amendments. In 2013, a Memorandum of Co-operation was signed between the Parliament and CSOs (up to 115 organisations). This memorandum is not part of the legislation, but an action plan should be introduced by the Parliament describing the co-operation in more detail.

At the local government level, the Local Government Code prescribes the creation of commissions for the purpose of prior elaboration of issues for each *Sakrebulo* (City Council), for supporting the implementation of decisions, for exercising control over the executive branch of local government (*Gamgeoba* or Mayor's

³⁸ The document identifies several challenges and problems in the policymaking process in the country, and directly indicates that there is no established structured system for public participation in the policymaking process. Available only in Georgian: <https://matsne.gov.ge/ka/document/view/2953552>

office) and legal entities established by the municipalities under public law. The sessions of those commissions are open for citizens to attend, which gives them an opportunity to participate and voice their opinions.

There are different interagency councils, committees, special commissions and working groups where different CSOs and international organisations are invited to participate (depending on the topics discussed). There are no unified rules or guidelines for such groups, and the operation of each of them is defined individually under the respective bylaws (government decrees, for example).

For example, the Anti-Corruption Council, the Criminal Justice Reform Inter-Agency Co-ordination Council, and the Inter-Agency Co-ordinating Council Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment all operate under the Ministry of Justice and work on different policy issues. The Migration Commission unites various ministries, international NGOs (INGOs) and CSOs that discuss migration-related policies.

There is no explicit legal requirement for the Government and authorities to consult with specific interest groups where a law or policy has an impact on their field of interest. Such individuals or groups have the right to address the Constitutional Court if they consider that a law, once adopted, violates their rights or freedoms enshrined in the Constitution.

There is no single agency or particular law that co-ordinates consultations between the Government and civil society. However, there are good examples of certain co-ordination mechanisms. For instance, the special secretariat under the auspices of the Government dealing with the Georgian human rights strategy and action plan co-ordinates the entire consultation process among state institutions and a large number of CSOs involved in the drafting process or evaluation of the implementation process of the action plan. Another example is the Migration Commission, which co-ordinates collection of the recommendations on draft laws/policies from the NGOs/INGOs in the field of migration.

The Parliament's rules of procedure (which are part of the binding legislation) prescribe the obligation of the Parliamentary Bureau to publish draft amendments on the parliament's website as soon as they are registered. There is no obligation to publish the work documents of the Government in the process of preparing the amendment prior to its registration with the Parliamentary Bureau. In practice, draft amendments are always published. However, if a draft is not published, there is no specific procedure of litigation for non-publication. In this case, an interested individual can apply the Freedom of Information regulations (prescribed under the Administrative Code) and request the draft as public information.

- *Dialogue and partnership mechanisms/forums*

According to the law, the budget planning process should be implemented in a transparent manner, and legislation provides a variety of tools and mechanisms for interested stakeholders to prepare comments on drafts, and participate in committee hearings. At the same time, there are no guidelines regulating structured participatory processes in budget planning. At the local level, the population can engage in the process through public proceedings, make comments, prepare recommendations, and raise initiatives. However, due to lack of awareness about the budgetary processes, as well as general rights, the population rarely applies the mechanisms available.

There are no specific or effective procedures in legislation that prescribe local impact assessments or public participation in planning (for instance on environment-related issues). The only express obligation in this regard exists in relation to draft legislation (which must be published in advance and made available to the public). In addition, when Constitutional amendments are introduced, there is an obligation to hold public consultations prior to the adoption of the amendments.

On the local level, there is only an obligation to publicise draft budgets. In addition, there are various mechanisms that allow local communities to proactively address the local authority (such as the right to submit petitions, or the right to hold general assemblies to discuss problems). In addition, a petition by 1% of the local population (registered in the specific locality) gives the petitioners the right to address the local government authority (*Sakrebulo*) about initiating changes.

Considering the transparency of selection mechanisms for inviting CSO representative to consultations, information on public consultations is usually public and any interested stakeholder has the possibility to engage in the process. When it comes to regional CSOs, they do not have the same capacity or influence as national NGOs and, in practice, are not well represented in national consultative forums, despite the theoretical possibility to participate.

Information about consultations is usually distributed via e-mail among CSOs, academics and experts. In some cases, information about roundtables is announced in advance on the websites of the ministries, but usually this information is announced after the meeting itself, when the particular state institution shares information about the outcomes of the meeting. Consultations at the local level are not regulated by law, and practice varies from one locality to another.

- *Advance notice and feedback on draft initiatives*

There is no government manual outlining the participatory process for the review of draft laws and policies. Although in general the legislative process provides reasonable time for submitting opinions, an exception in the law allows the Parliament to adopt draft legislation quickly. In reality, sensitive topics are usually discussed over such a short period of time that it is almost impossible to include proper participation in the process.³⁹

There is no formal obligation for state institutions to provide the public with an account of which recommendations from the consultation process were or were not adopted, and why. It mostly depends on practice and the good will of the state institution. Such cases are rare and, if they occur, the information is shared within the circle of those who have provided the recommendations (not with the broader public).

- *Monitoring and evaluation*

There is no dedicated agency that evaluates the implementation of legislation, but specific instruments do exist. The Government's implementation of policy documents, strategies and legislation is also evaluated by the Parliament, using different reporting forms.

iv. Resources and Enabling Environment

- *Civil society freedoms*

According to the general legislation, CSOs can be registered easily and can operate without arbitrary restrictions. Georgian civil society usually relies on peaceful forms of public mobilisation without any hindrance. CSOs are able to receive

³⁹ After the adoption of the bill at the first reading, the lead parliamentary committee considers the draft bill within two weeks. After the adoption of the draft bill at the second reading, the lead committee adjusts the draft bill according to the comments and remarks made during the second reading, and forwards the updated draft bill to the bureau of Parliament for the third reading at the plenary session. These timeframes are subject to extension at the initiative of the committee chairperson and decision of the bureau. If the lead committee does not launch hearings on considering the draft bill one month after the bureau starts the procedure, the initiator of the draft bill has the right to request consideration of the draft bill or to request that the bureau consider the draft bill at the plenary without the prior remarks of the lead committee. In case the draft bill, as adopted at the third reading, is returned by the President, the bill can be re-adopted within one week.

funds from international sources, as well as from national donors and government agencies. There is no limitation of activities, and CSOs are free to prepare and voice recommendations and propose draft amendments to legislation.

- *State budgets and staffing for participatory policymaking*

In almost all cases, state institutions and administrative agencies have special units (analytical departments and legal departments) that work on drafting legislation, regulations, or policy documents. Each state institution has its own budget allocations. Thus, although there is a gap in terms of evidence-based policymaking, in some cases it is partially compensated by the work of analytical teams within the institutions (in practice, this is not always sufficient). According to the legislation, prior to submission of a draft law to the Parliament, the draft must be submitted to the Ministry of Justice for review by legal experts. This is a mandatory function of the ministry, and thus this component is funded from the state budget.

According to the Local Government Code, the state exercises supervision of local government in terms of legal and competence-related compliance. The purpose of the legal supervision is to determine the compliance of municipal legal acts with national legislation. The legal supervision is conducted by the Office of the Prime Minister. However, the form of legal supervision is not defined.

According to information received from the Government Administration and 11 ministries, the development of strategic policy documents (Strategies, Action Plans) is the task of the various structural units. In some cases, those are Policy Departments; in other cases, those are the Strategic Planning and Analytical Divisions, or Legal Departments.

These units do not have a dedicated official responsible for ensuring citizens' engagement in the policymaking process. However, according to the Ministry of Education, the Public Relations Department is responsible for informing the public, and this department ensures the engagement of the public in ongoing reforms. The Ministry of Agriculture always invites various groups and holds discussions in various formats, although it has no dedicated public official or human resources specifically for these tasks. Other ministries indicate that those responsible for developing the strategy documents communicate directly with stakeholder groups. In the Ministry of Environment and Natural Resources Protection, the

public relations unit holds awareness-raising campaigns and constantly informs the public about reforms. In the Ministry of Foreign Affairs, there is no dedicated official responsible for engaging citizens in the policymaking process. The salaries of the employees of these units are financed from the annual state budget.

In the majority of the ministries, various trainings related to policy planning issues have been held at various times through international donor funding.

In the case of local government authorities, structural units have the task of developing policy and strategic documents; however, they do not have dedicated staff for ensuring citizens' engagement. No regular trainings are provided in this regard for local government officials.⁴⁰

The Policy Planning System Reform Strategy and Action Plan recognises that the work conducted by different ministries with regard to the policymaking process is not always very effective. There are different practices in different ministries, while specific ad hoc groups or permanent units prepare concept papers or problem-analysis and submit them to ministers or deputy ministers for decision-making.

As indicated in the Reform Strategy and Action Plan, six of the Government's 19 ministries lack special units responsible for policy planning. Most ministries have enjoyed technical assistance from donors while working on policy planning and policymaking, but there is not a uniform approach concerning the number of civil servants involved in the process. In the case of 13 ministries, more than 10 people were involved in policy planning and, in nine of those ministries, as many as 20 people were engaged in policy planning.

The Reform Strategy and Action Plan confirmed that trainings for civil servants working on policymaking and the policy planning process was conducted in only six ministries in 2013-2014, including the Ministry of Justice, Ministry of Corrections, Ministry of Economy and Sustainable Development, Ministry of Internal Affairs, and Ministry of Finance.

⁴⁰ The information here on staffing and training was obtained through a freedom of information request in March 2016. Responses were provided by the following state institutions: the Government of Georgia; Ministry of Energy; Ministry of Finance; Ministry of Foreign Affairs; Ministry of Labour, Health and Social Affairs; Ministry of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees; Ministry of Education and Science; Ministry of Agriculture; Ministry of Regional Development and Infrastructure; Ministry of Culture and Monument Protection; Ministry of Sport and Youth Affairs; Ministry of Corrections; Ministry of Environment and Natural Resources Protection. Responses were given by local government authorities in Tbilisi, Gori, Rustavi, Telavi, Ozurgeti, Zugdidi, Akhaltsikhe, and Mtskheta.

The Participatory Policymaking Process in GEORGIA – Policy Cycle Stages		
Green Paper prior to drafting legislation	Forms of consultation	Participants invited to consultation
<p>The preparation of Green Papers is: <i>Rare</i></p> <p>When a Green Paper has been prepared, the publication of the Green Paper is: <i>Rare</i></p> <p>If there is a Green Paper, is a timeframe prescribed from publication to deadline for feedback and recommendations? <i>No</i></p> <p>Are feedback reports published concerning Green Papers, explaining which recommendations from whom were accepted/not accepted, and why? <i>No</i></p>	None	
First draft of legislation	Forms of consultation	Participants invited to consultation
<p>When a draft law has been prepared, the publication of the draft law is: <i>Standard practice</i></p> <p>Is a timeframe prescribed from publication to deadline for feedback and recommendations? <i>No</i></p> <p>Are feedback reports published, explaining which recommendations from whom were accepted/not accepted, and why? <i>No</i></p>	Expert working groups or taskforces	<ul style="list-style-type: none"> ▪ selected business associations ▪ open invitation to all NGOs
	Public hearings	<ul style="list-style-type: none"> ▪ open invitation to all NGOs

The Participatory Policymaking Process in GEORGIA – Policy Cycle Stages		
Parliamentary review of legislation	Forms of consultation	Participants invited to consultation
<p>Are parliamentary committee meetings reviewing draft laws announced in advance with the public and interested parties invited to attend? Yes</p>	<p>Expert working groups or taskforces</p>	<ul style="list-style-type: none"> ▪ open invitation to all NGOs
<p>Is a timeframe provided to announce the review meeting with advance notice? Yes</p> <p>If so, how far in advance is the meeting announced? 1 or 2 days</p> <p>Is a timeframe prescribed from launch of parliamentary review to deadline for feedback and recommendations? No</p> <p>Are feedback reports published, explaining which recommendations from whom were accepted/not accepted, and why? No</p>	<p>Committee hearings</p>	<ul style="list-style-type: none"> ▪ government-selected NGOs
Review of parliamentary committee amendments	Forms of consultation	Participants invited to consultation
<p>When a draft law has been considered by a parliamentary committee, the publication of the committee’s proposed amendments is: <i>Standard practice, but not required</i></p> <p>Is a timeframe prescribed from publication of committee amendments to deadline for feedback and recommendations before the legislation goes to a final vote in parliament? No</p> <p>Are feedback reports published, explaining which recommendations from whom were accepted/not accepted, and why? No</p>	<p>None</p>	

REPUBLIC OF MOLDOVA

i. Access to Information

- *Freedom of information legislation*

The Law on Access to Information was adopted in 2000, and it obliges central and local public authorities to provide public information.⁴¹ The obligation covers the Parliament, the President, the Government, public administration, judicial authorities, organisations established by the state and funded from the state budget, and individuals and legal entities that are empowered by the state to provide public services or to collect and hold official information.

Information requests are met free of charge⁴² if the information influences directly the rights and freedoms of the requesting party, if information is presented orally, is examined on the institution's premises, or contributes to the transparency of the public institution and is in the interest of society.⁴³

Fees are required for providing official information and documents, but cannot exceed the costs incurred during the search for, and processing of, the information or parts thereof, copying, sending it to the applicant and/or translating it from the state language, based on the request of the information-seeker.

The information should be provided within a maximum of 15 working days after the date of registration of the request. This can be extended by five working days if a very large amount of information has been requested, and it requires analysis, or if additional consultations are necessary in order to carry out the request. Authorities often apply the provision of the law on petitioning, which allows a 30-day term for replies.⁴⁴

⁴¹ Law No. 982 on Access to Information of 11.05.2000; <http://lex.justice.md/md/311759/> (Romanian); www.legislationline.org/documents/action/popup/id/6394 (English) – some parts are not updated.

⁴² Article 20(5) of Law No. 982 on Access to Information (11 May 2000).

⁴³ There is a methodology for setting tariffs for public services, drafted in 2014-2015 by the civil service, but it had not been approved as of 1 April 2016.

⁴⁴ *Mass Media Access to Information in Moldova: Problems and Perspectives*, page 2 (Center for Independent Journalism, 2014); www.media-azi.md/en/mass-media-access-information-moldova-problems-and-perspectives

- *Disclosure of public finances and legislative proposals*

Law No. 181 on Public Finances and Budgetary-Fiscal Responsibility of 2014 requires the Ministry of Finance to produce and publish periodic reports, programmatic, forecast and annual reports on state budget execution and on national public budget execution. Article 24(e) of the law requires local public authorities to publish budgets, expenditure reports, and performance reports.⁴⁵ Likewise, the 2008 law No. 239 on Transparency in the Decision-Making Process requires governmental, regional, and local authorities to publish detailed public information on issues of public concern.

This is not entirely respected by the first-level authorities (town and village levels), as they lack the appropriate human and financial resources to publish the information.

The Government Decision No. 188 of 3 April 2012 on the Official Websites of Public Administration Authorities requires an increase in the level of transparency of public authorities and access to public information through official websites, and establishes mandatory minimum requirements for the official websites of public authorities.⁴⁶ This includes the requirement to publish information about new policies, legislation, strategic documents, and reports on transparency in the decision-making process.

The Government created an open government portal, **particip.gov.md**, to increase participation in decision-making. The Government and ministries publish the texts of draft laws and the corresponding Informative Notes on this site. Moreover, individual ministries' websites have a page dedicated to "decisional transparency" where draft laws are published for consultation.⁴⁷ From the date of their publication, there is a deadline of 10-15 days for comments on draft legislation.⁴⁸

In 2014, 10 out of 16 ministries published reports on decisional transparency. The ministries held consultations on 9% of draft laws in 2013 and on 14% in 2014.⁴⁹

⁴⁵ <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=354213>

⁴⁶ <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=342699>

⁴⁷ Ministry websites dedicated to "transparent decision-making" include Ministry of Finance: www.mf.gov.md/transparency, Ministry of Labour, Social Protection and Family: <http://mmpsf.gov.md/ro/content/proiecte>, and Ministry of Justice: <http://justice.gov.md/category.php?l=ro&idc=182&nod=1&>

⁴⁸ Article 12(2) of Law No. 239 on Transparency in the Decision-Making Process (13 November 2008)

⁴⁹ The study-survey on the implementation of Law 239 on Transparency in the Decision-Making Process (Roma-

Local authorities held consultations on 24% of the documents they adopted in 2013 and on 33% in 2014.⁵⁰

The Government decision recommends that local authorities at the first level (villages and towns) and second level (regions and city regions) bring their websites in line with the same norms of disclosure.⁵¹ However, as it is drafted as a recommendation, it is not binding.

ii. Direct Democracy

▪ *Direct elections*

Direct elections are held nationally – every 4 years – to select parliamentary deputies. Since 2000, the President has not been directly elected, but elected by parliamentary deputies. However, the Constitutional Court's ruling of 4 March 2016 reintroduced the direct election of the President, overturning the change in 2000 from direct elections to election by Parliament. According to this decision, the Parliament has to amend the Constitution, and new direct Presidential elections will be held on 30 October 2016.⁵²

Direct elections are held for local district and city councillors – every 4 years – and city mayors are also elected directly. The city region or regional council elects the President of a *Rayon* (a position similar to the governor of a region).⁵³

▪ *National and local referenda*

The provisions regarding national and local referenda are prescribed in the Constitution and Electoral Code.⁵⁴

nian), 2016, page 2, www.romaniacurata.ro/wp-content/uploads/2016/04/Raport-aplicare-L239-din-2008-mp-3.pdf

⁵⁰ *Idem*, page 4.

⁵¹ Official websites of selected regional authorities: Ialoveni – <http://il.md/dezbateri-publice>; Edineț – <http://primariaedinet.md>; Hîncești – <http://hincesti.md/>

⁵² On 4 March 2016, the Constitutional Court delivered decision No. 7 on the constitutionality of certain provisions of Law No. 1115-XIV of 5 July 2000, amending and supplementing the Constitution (the election of the President). In the court's decision published on 18 March 2016 (notification/ complaint No. 48b/2015), the Constitutional Court ordered the reversion to the legal status existing prior to constitutional amendments, namely to ensure the election of the president by the direct vote of citizens.

⁵³ Article 49 of Law No. 436/2006 on Local Public Administration: http://lex.justice.md/document_rom.php?id=C8E304A4:037190E8

⁵⁴ www.cec.md/files/files/blocul_COD_Elect-2014__eng_07-11-12_corect_FINAL.pdf

National referenda can be constitutional, legislative or consultative, and can be held on problems of utmost importance to society, on the sovereign, independent and unitary character of the state, on permanent neutrality, or on the adoption and revision of the Constitution.⁵⁵ A national referendum can be initiated by 200,000 citizens with the right to vote, one-third of parliamentary deputies, the President, or the Government. A national referendum can be held to recall Parliament.

A referendum on the revision of the Constitution can be initiated by 200,000 citizens with the right to vote (signatories of the call for the referendum must include at least 20,000 citizens each from at least 50% of second-level administrative-territorial units), by one-third of parliamentary deputies, or by the Government.⁵⁶ The results of a national referendum have to be confirmed by the Constitutional Court.

A local referendum takes the form of a consultation of citizens on an issue of the utmost importance for the community that falls under the competence of the local authorities. A local referendum on recalling a mayor may be initiated one year after the respective mayor has been in office, or one year after the last referendum on his/her mandate was held.

According to the Constitution, a local referendum can be initiated by one-half of the elected councillors – or, in case of recall of the mayor by secret vote, two-thirds of the elected councillors. A local referendum can be initiated likewise by the mayor of a village or city (except when initiating a referendum to revoke the mayor), by the representative authority of an administrative-territorial unit with special status (applicable to Gagauzia), or by 10% of the citizens eligible to vote residing within the administrative-territorial unit.

With a view to initiating a referendum, a citizens' initiative group can be formed by at least 20 citizens with voting rights and residing in the respective administrative-territorial unit. At least 30 citizens should participate at the founding meeting of the initiative group. The initiative group is registered by the local public administration within five days of the date of submission of the application, the protocol of establishment, and the questions proposed for the referendum. Where a referendum on recalling the mayor is being initiated, the initiative group shall be registered by the district or municipal court where the respective locality is situated. The information regarding the registration of the citizens' initiative group shall be published in the local press.

⁵⁵ <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=311496>

⁵⁶ On 30 March 2016, the Central Electoral Commission rejected a referendum request for a revision of the Constitution on the grounds that, even if more than 400,000 signatures had been collected, the initiative group submitted the minimum 20,000 signatures from only three second-level administrative-territorial units: www.cec.md/index.php?pag=news&id=1042&rid=14620&l=ro.

A local referendum is valid if more than one-third of eligible voters have voted (in the case of the recall of a mayor, the decision must receive at least the same number of votes received by the mayor when he/she was elected, and at least half of the votes cast in the referendum), and after the results have been confirmed by a court decision. An adopted local referendum proposal may be cancelled or amended by a subsequent local referendum, or by the decision of the respective local council, adopted by the vote of at least two-thirds of the councillors.

▪ *Public initiatives and petitions*

The Law on Petitioning prescribes the right of individuals to request certain actions from the authorities.⁵⁷ A petition under this law means any claim, complaint, or suggestion addressed to relevant public bodies, including a preliminary application contesting an administrative act or failure.

The official body to whom petitions are addressed is obliged to: examine petitions; ensure the restoration and recovery of any infringed rights under law, and compensation for damage caused; and ensure the execution of decisions taken after examining petitions.

The official body has the right to reject or accept the preliminary application of the petitioner and, where appropriate, cancel or modify the administrative act. A higher authority is entitled to reject the preliminary petition and instruct a lower authority to accept or cancel the administrative act, in whole or in part (Article 12 of the Law on Petitioning).

The appropriate bodies generally examine petitions within 30 working days and, in the case of those that do not require additional examination, without delay or within 15 working days of registration. Up to 90 working days is permitted in the case of petitions that include international attributes, provided that, within 30 working days, the petitioner receives a response that informs the petitioner about the measures taken to resolve the subject of the petition. If the petitioner does not agree with the response, she or he has the right to challenge the decision in the court within 30 days (Article 8).

⁵⁷ Law No. 190/1994: <http://lex.justice.md/index.php?action=view&view=doc&id=313313>

iii. Laws and Procedures to Facilitate Participatory Policymaking

- *Open Government Partnership*

Moldova joined the Open Government Partnership (OGP) in April 2012.⁵⁸ The 2012-2013 Action Plan included a participatory decision-making process at the national and local level.⁵⁹

The 2014 Action Plan is part of the Governance e-Transformation Action Plan for 2014 (Government Decision No. 1096 on Approving the Action Plan 2014 for the Implementation of the Strategic Programme for Technological Modernisation of Governance (e-Transformation), 31 December 2013), which outlines actions related to implementing technological solutions for improving governance. The latest Action Plan included more technical aspects than the 2012-2013 Action Plan.⁶⁰

Open data commitments are in place for both central and local government, including publishing guidelines and principles of open data, and setting up an action plan for open data.

- *Green Papers*

Provisions exist for the elaboration of Green Papers before legislation is drafted. The Regulation adopted by the Government Decision No. 96 on the Implementation of the Law on Transparency in the Decision-Making Process (16 February 2010) defines the concept of “ex-ante analysis” as a “process of identification of the problem, the objective, of possible options to solve the problem or to accomplish an objective, and the analysis of the effects or consequences of these options before adopting the decision”. However, Green Papers are rarely used in practice.

- *Public consultations on draft laws and policies*

According to Article 21 of the Law on Legislative Acts No. 780/2001, draft legislation is sent for approval to the internal and external authorities and institutions concerned, and is subject to a public consultation procedure, as

⁵⁸ www.opengovpartnership.org/country/moldova

⁵⁹ The Progress Report for 2012-2013 is available at: www.opengovpartnership.org/sites/default/files/Moldova_IRM_Report_Final_%28ROM%29.pdf

⁶⁰ The Action Plan for 2014 is available at: <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=351125> (Romanian) and www.opengovpartnership.org/sites/default/files/Moldova_Open_Government_Action_Plan_2014_.pdf (English).

provided by law. The working group of experts and academics, established by the Ministry of Justice, Ministry of Finance or other ministries, studies the proposals and objections set out in opinions and recommendations received during the public consultation period, and decides which to take into consideration or reject when finalising the draft legislative act.

According to Article 38(1) of Law No. 317 on Normative Acts of the Government and other Central and Local Administration, before being presented for approval to the competent body, the draft law must be endorsed by those authorities and institutions directly involved in solving the problems included in the proposal. The term of examination of the draft legislation by the concerned authorities is 10 days. In certain situations (such as in the case of complexity or volume), it can be extended by up to one month. If no response has been obtained from the authority or organisation concerned, and no extension of the approval period has been requested, the draft law is considered approved without objections and proposals.⁶¹

Although some government agencies provide online guidelines on transparency in the decision-making process, or develop internal rules concerning the provision of transparency in the decision-making process, there is not a government manual outlining the participatory process in the review of draft laws and policies. Law No. 239 on Transparency in the Decision-Making Process (2008) sets out standards and procedures on the involvement of citizens, associations and other concerned parties (including private legal persons) in the decision-making process both at the national and local level.⁶² Law No. 239 stipulates in Article 7(2) that transparency at the level of the Parliament is ensured according to the Rules of Parliament, adopted by Law No. 797 of 2 April 1996.⁶³ At the level of the Government, transparency in decision-making is ensured in Law No. 64 on the Government of 31 May 1990⁶⁴ and Government Decision No. 96 of 16 February 2010 on Implementation of the Law on Transparency in the Decision-Making Process.⁶⁵ At the local level, Law No. 436 on Local Public Administration regulates transparency in decision-making.⁶⁶

⁶¹ Romanian version: <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=312810>

⁶² Romanian version: <http://lex.justice.md/index.php?action=view&view=doc&id=329849>. English version (does not include 2014 amendments): www.right2info.org/resources/publications/laws-1/Moldova-Law%20on%20transparency%20in%20the%20decision.doc/view

⁶³ Romanian version: <http://www.parliament.md/CadrulLegal/RegulamentulParlamentului/tabid/154/language/ro-RO/Default.aspx>

⁶⁴ Article 2 (31). Romanian version: <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=312895>

⁶⁵ Romanian version: <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=333789>

⁶⁶ See articles 8, 14, 17, 32, 39, 43 and 51 of the law (28 December 2006). Romanian version: <http://lex.justice.md/>

Law No. 780 on Legislative Acts and Law No. 317 on Normative Acts of the Government and other Central and Local Administration provide rules for public authorities to consult draft laws with interested authorities and agencies, and all draft laws and decisions of the Government are subject to mandatory anti-corruption expert examination by the National Anti-Corruption Centre.⁶⁷ Law No. 317 provides that the Government adopts annual (quarterly) programmes on the elaboration of normative acts.⁶⁸ In practice, however, the authorities almost never consult the public on the intention of drafting normative acts.

The general objective of the Government's Strategy for the Development of Civil Society for 2012-2015 and its corresponding Action Plan was to strengthen the framework for the participation of civil society in developing and monitoring the implementation of public policies.⁶⁹ Relations between the Parliament and civil society are governed by the Concept of Co-operation between Parliament and Civil Society, adopted by the Parliament Decision No. 373 of 29 December 2005.⁷⁰

In 2010, the Government created the National Participation Council (NPC), a consultative body composed of 30 CSO representatives selected by the Government. However, the NPC mandate expired in 2014 and the Government was subsequently unable to select a new NPC, in part because the number of applications for membership was too low (only 11).

In line with the Law on Transparency in the Decision-Making Process, public consultations can be organised by the following means: public debates, public hearings, opinion polls, referenda, expert interviews, and the creation of standing or ad hoc task forces involving civil society representatives. No announcement is required about the consultation process adopted, and the procedures for consultations are established separately by the Parliament, the President, and the Government.

Public consultations should be announced at least 15 days prior to completion of the draft decision. Within a maximum of 15 days after the public authority has begun to draft a decision, it should announce on its website the argumentation for the necessity to adopt the decision, the exact dates of public debates, if foreseen,

[index.php?action=view&view=doc&lang=1&id=321765](http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=321765)

⁶⁷ Article 4(1d) of Law No. 1104: <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=344902>

⁶⁸ Romanian version: <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=312810>

⁶⁹ Adopted by Law No. 205 of 28 September 2012. Romanian version: <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=346217>

⁷⁰ Romanian version: <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=314906>

and deadlines for recommendations, together with the contact details to which they should be sent. The announcement should be sent to the concerned parties via email, and the information should be released to the national or local mass media. In addition, legislative initiatives of the Government are consulted with civil society through an online platform, **www.particip.gov.md**, where all drafts are published before adoption.

However, Article 3 of the Law on Transparency in the Decision-Making Process provides that the law is not applicable during the decision-making process and sittings of public authorities where official information with limited/restricted public access, as stated in the law, is examined (this is open to wide interpretation – only a general reference is made, without indicating a particular law). The same rules apply to operative meetings of the authorities concerned. The law does not specify what “limited/restricted public access” means.

Parliamentary committees have to organise public consultations regarding each registered draft law.⁷¹ The public consultation consists of publishing the draft laws on the website of the Parliament. No contact details are provided, nor deadlines for providing comments. However, once the Parliament has published a draft law, the interested public has 15 days to submit comments. Subsequently, the Parliament publishes no summary of the recommendations received during the public consultations.

The Rules of Parliament also stipulate that in order to facilitate the process of public consultation on draft laws and legislative initiatives, permanent committees draft a list of associations and interested parties, periodically updated. The rapporteurs of the respective committee draft a report on the opinion of the committee, including separate opinions, as well as the results of public consultations. In practice, this report is not public so it is not possible to confirm if it includes the results of public consultations or not.

The law does not have provisions for further consultations when a law has been substantially amended in the Parliament. The Parliament often amends strategic laws, without taking into consideration the public consultations organised by the Government, and there is no procedure in the national legislation for a further round of review of the legislation.

There is no agency to co-ordinate the public consultation process. However, in 2008, the Government established an Interministerial Committee for Strategic

⁷¹ Article 491 of the Rules of Parliament: www.parliament.md/CadruLegal/RegulamentulParlamentului/tabid/154/language/ro-RO/Default.aspx

Planning (ICSP) that “ensures permanent dialogue with civil society and development partners, including through co-operation structures created by the Government”.⁷² In 2014, 10 ICSP meetings took place, and in 2015 there were two meetings. However, since no reports or information on its work are published, civil society is not aware of its activities. In addition, the Strategy for the Development of Civil Society in Moldova in 2012-2015 and the accompanying Action Plan provide for the creation of a separate body at the governmental level for co-operation with civil society.⁷³ In practice, the Government appointed one person responsible for co-operation with civil society in the Department of Policy Co-ordination and Strategic Planning of the State Chancellery.⁷⁴

According to Article 161 of the Law on Transparency of the Decision-Making Process, the non-application of the rules on transparency constitutes a disciplinary sanction according to the Labour Code and other legislation, such as Law No. 158 on The Public Function and Status of Civil Servants.⁷⁵

▪ *Dialogue and partnership mechanisms/forums*

Article 12 of the Law on Public Finances and Budgetary-Fiscal Responsibility prescribes public consultation of the drafts of legislative acts related to public finances.⁷⁶ However, neither this law nor the Law on Local Public Finances⁷⁷ offers procedures for public participation in budget planning or impact assessment, or consultations on draft budgets.⁷⁸

There are no clear and transparent mechanisms for the selection of civil society representatives invited to participate in consultations. Public consultations are more often organised by publishing online the draft laws and receiving comments by email or in hard copy by post. At the level of the Government, this is done regularly. The Government and ministries do not often organise public hearings and expert roundtables. Roundtables are usually organised by CSOs working in a particular area. In cases when the Government and ministries organise

⁷² Page 7 of Government Decision No. 838 of 9 July 2008, Romanian version: <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=328564>

⁷³ Action 1.1.1. Romanian version: <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=346217>

⁷⁴ <http://cancelaria.gov.md/ro/structura-cancelariei/directia-coordonarea-politicilor-si-planificare-strategica>

⁷⁵ Romanian version: <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=330050>

⁷⁶ Romanian version: <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=354213>

⁷⁷ Law No. 397 on Local Public Finances of 16 October 2003 does not provide any public consultation in budget planning. Romanian version: <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=356122>

⁷⁸ See the analysis, *Political Instability – The Decisive Factor in the Stagnation of Budget Transparency in Moldova*, by Expert-Grup on the Index of Budgetary Transparency (in Romanian): <http://expert-grup.org/ro/activitate/comunicate-de-presa/item/1216-comunicat-itb-2015>

roundtables and hearings, they are usually announced on the web pages of the authorities concerned.⁷⁹

- *Advance notice and feedback on draft initiatives*

According to the Government Decision No. 96 on the Implementation of the Law on Transparency in the Decision-Making Process, 10-15 working days have to be provided to interested parties to present comments on the drafts elaborated by the Government and ministries. In practice, the time provided for submitting opinions varies.⁸⁰ At the level of the Parliament, 15 working days are provided for comments after publication of the draft on the website for consultation.

The public authority has to publish the summary of the objections and comments submitted, and state the reasons if they were not accepted. In practice, this rule is usually respected. A synthesis of written proposals and recommendations is provided, including their authors, together with the ministry's decision (accepted/partially, accepted/not accepted), and the reasoning providing details why a specific recommendation was or was not accepted by the public authority.⁸¹

For instance, in 2015, the central apparatus of the Ministry of Economy received recommendations on draft laws as follows:

- From citizens: eight received, two accepted;
- From public associations: 52 received, 40 accepted.⁸²

- *Monitoring and evaluation*

The Government Decision No. 1181 (22 December 2010) on monitoring the process of implementation of legislation adopted a methodology for monitoring of the implementation of legislation and appointed the Ministry of Justice in charge of co-ordination of the monitoring process.⁸³ The ministry has to report every year on the results of monitoring and to publish the report on its website.⁸⁴ The reports are incomplete, however, including only one law or government decision per ministry.

⁷⁹ Examples include: "Agenda" section at www.particip.gov.md, and the Ministry of Justice web page on public consultations: <http://justice.gov.md/lib.php?l=ro&idc=191>

⁸⁰ Some timeframes are very tight as can be seen here: <http://posting.org/image/v0hkta7yd>, and here: <http://justice.gov.md/pageview.php?l=ro&idc=192>

⁸¹ See this example: http://justice.gov.md/public/files/transparenta_in_procesul_decizional/proiecte_spre_examinare/2016/februarie/5_sinteza_pe_autoritati.pdf

⁸² www.mec.gov.md/ro/content/rapoarte-transparenta

⁸³ Romanian version: <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=337112>

⁸⁴ All reports for the period 2011-2016 on monitoring and implementation of legislation have been published at <http://justice.gov.md/pageview.php?l=ro&idc=103&>

The monitoring and assessment of the implementation of legislation does take place in the case of some laws or public policy documents, however. For example, central authorities annually publish reports on the implementation of the Law on Transparency in the Decision-Making Process.⁸⁵ However, they present statistical information rather than qualitative analysis. Every year, the State Chancellery issues a general report on transparency in the decision-making process.⁸⁶

Policy documents usually have a mechanism of monitoring of implementation and indicate a concrete responsible authority that has to regularly report on the implementation. For instance, the Ministry of Labour, Social Protection and Family reports on the implementation of the National Programme for Gender Equality.⁸⁷

iv. Resources and Enabling Environment

▪ *Civil society freedoms*

Any civil society organisation can make recommendations to decision-makers by submitting opinions on draft laws, issuing public appeals or declarations, or organising press conferences. CSOs can access funding for such activities from individuals, crowdfunding, corporations, and foreign sources.

▪ *State budgets and staffing for participatory policymaking*

Each public entity has a Department for Analysis, Monitoring and Policy Evaluation dealing with strategic policy formulation and the drafting of legislation to support decision-makers. All draft legislation is sent to the Ministry of Justice before submission to the Government. The Ministry of Justice has a General Directorate on Legislation, where the consultation of the draft legislation with stakeholders is carried out. Staffing and budget allocations for the review of draft laws are not available in a disaggregated form.

At the level of the Government, following the Government Decision No. 96 of 16 February 2010, all central authorities (State Chancellery, ministries, and other central administrative authorities and decentralised public services) had to adopt internal rules on public consultations and to appoint co-ordinators of public consultations.

⁸⁵ Examples include the Ministry of Justice: <http://justice.gov.md/pageview.php?l=ro&idc=328>, the Ministry of Finance: www.mf.gov.md/TranspDeciz/RaportDeciz, the National Anti-Corruption Centre: <http://cna.md/ro/rapoar-te-anuale>.

⁸⁶ www.old.cancelaria.gov.md/lib.php?l=ro&idc=333&

⁸⁷ http://mmpsf.gov.md/sites/default/files/document/attachments/raport_evaluare_pnaeg_2010-2015.pdf

In addition, the Strategy for the Development of Civil Society in 2012-2015 and the associated Action Plan provide for the creation at the governmental level of a separate entity for co-operation with civil society. In practice, the Government appointed a senior consultant in the Department of Policy Co-ordination and Strategic Planning of the State Chancellery responsible for transparency in the decision-making process, the management of **particip.gov.md**, the preparation of annual reports on transparency in the decision-making process in central public authorities, and the implementation of the Strategy for the Development of Civil society (the strategy expired at the end of 2015). Moreover, in the drafting and consultation process, a contact person and contact information for the consultation process is usually assigned in the respective ministry.

The Directorate General for Co-ordination of Policies, External Assistance and Central Public Administration Reform within the State Chancellery has the task of ensuring the development and approval by the Government of high-quality public policies, namely to ensure their implementation, monitoring and evaluation by the central public authorities.

The Directorate General comprises the following divisions:

- policy co-ordination and strategic planning (13 employees);
- public policy analysis (five employees);
- monitoring and evaluation (six employees);
- central public administration reform (nine employees).

According to data from the Academy of Public Administration, in line with the Government Decision No. 850 of 9 December 2015 on the State Order on Development of Professional Staff of Public Authorities, around 175 public servants from central authorities are due to be trained in 2016 to “develop and evaluate public policies and to co-ordinate the consultation process”.⁸⁸ The civil servants concerned will be trained at the Academy of Public Administration in the following topics:

- development and assessment of public policies (50);
- elaboration and co-ordination of draft legislative acts (75);
- strategic planning process (50).

⁸⁸ Source: Appendix of Government Decision No. 1000 of 10 December 2014 on the 2015 State Order on Staff Professional Development in Public Authorities. Romanian version: <http://lex.justice.md/index.php?action=view&iw=doc&lang=1&id=362324>

There is no data on trainings provided to local public officials. Although there is no data on the number of trainings and number of staff of CSOs trained in the review of policies and legislation, some CSOs have developed studies and guidelines on participation in decision-making.⁸⁹

⁸⁹ *Transparența decizională în activitatea parlamentului: prevederi legale, aplicabilitate și aplicare* (Decisional Transparency in Parliamentary Activities: Legal Provisions, Applicability, and Application), study in Romanian by Mariana Kalughin, ADEPT, 2013: www.e-democracy.md/files/td/transparența-decizionala-parlament-2013.pdf
Ghidul asupra problemei participării publicului în luarea deciziilor (Guidance on the Issue of Public Participation in Decision-Making), study in Romanian, Eco-TIRAS, 2011: http://www.eco-tiras.org/books/Ghid-PP-2011-Eco-TI-RAS_rum.pdf

The Participatory Policymaking Process in REPUBLIC OF MOLDOVA – Policy Cycle Stages		
Green Paper prior to drafting legislation	Forms of consultation	Participants invited to consultation
<p>The preparation of Green Papers is: <i>Rare</i></p>	Expert working groups or taskforces	<ul style="list-style-type: none"> ▪ selected experts ▪ open invitation to all business associations ▪ government-selected NGOs ▪ open invitation to all NGOs ▪ general public
<p>When a Green Paper has been prepared, the publication of the Green Paper is: <i>Mandatory</i></p>	Roundtables	<ul style="list-style-type: none"> ▪ selected experts ▪ open invitation to all business associations ▪ government-selected NGOs ▪ open invitation to all NGOs ▪ general public
<p>If there is a Green Paper, is a timeframe prescribed from publication to deadline for feedback and recommendations? <i>Yes</i></p>	Public hearings	<ul style="list-style-type: none"> ▪ selected experts ▪ open invitation to all business associations ▪ government-selected NGOs ▪ open invitation to all NGOs ▪ general public
<p>If so, how long do interested parties have to provide their input? <i>At least 10 working days</i></p>	Public debates	<ul style="list-style-type: none"> ▪ selected experts ▪ open invitation to all business associations ▪ open invitation to all interest groups ▪ government-selected NGOs ▪ open invitation to all NGOs ▪ general public
<p>Are feedback reports published concerning Green Papers, explaining which recommendations from whom were accepted/not accepted, and why? <i>No</i></p>	Opinion polls and referenda	<ul style="list-style-type: none"> ▪ general public

The Participatory Policymaking Process in REPUBLIC OF MOLDOVA – Policy Cycle Stages		
First draft of legislation	Forms of consultation	Participants invited to consultation
When a draft law has been prepared, the publication of the draft law is: <i>Mandatory</i>	Expert working groups or taskforces	<ul style="list-style-type: none"> ▪ selected experts ▪ selected business associations ▪ government-selected interest groups ▪ government-selected NGOs
Is a timeframe prescribed from publication to deadline for feedback and recommendations? <i>Yes</i>	Roundtables	<ul style="list-style-type: none"> ▪ selected experts ▪ open invitation to all business associations ▪ government-selected interest groups ▪ open invitation to all interest groups ▪ government-selected NGOs ▪ open invitation to all NGOs ▪ general public
If so, how long do interested parties have to provide their input? <i>At least 10 working days.</i>	Public hearings	<ul style="list-style-type: none"> ▪ selected experts ▪ open invitation to all business associations ▪ government-selected interest groups ▪ open invitation to all interest groups ▪ government-selected NGOs ▪ open invitation to all NGOs, ▪ general public
Are feedback reports published, explaining which recommendations from whom were accepted/not accepted, and why? <i>Yes</i>	Public debates	<ul style="list-style-type: none"> ▪ selected experts ▪ open invitation to all business associations ▪ government-selected interest groups ▪ open invitation to all interest groups ▪ government-selected NGOs ▪ open invitation to all NGOs ▪ general public
If so, how soon after the end of the consultation period are these published? <i>No deadline is established by law.</i>	Opinion polls and referenda	<ul style="list-style-type: none"> ▪ general public

The Participatory Policymaking Process in REPUBLIC OF MOLDOVA – Policy Cycle Stages		
Parliamentary review of legislation	Forms of consultation	Participants invited to consultation
<p>Are parliamentary committee meetings reviewing draft laws announced in advance with the public and interested parties invited to attend? <i>No</i></p> <p>Is a timeframe provided to announce the review meeting with advance notice? <i>No</i></p> <p>Is a timeframe prescribed from launch of parliamentary review to deadline for feedback and recommendations? <i>Yes</i></p> <p>If so, how long do interested parties have to provide their input? <i>15 working days from the moment the draft law is published on the Parliament website or from the moment the Parliament expressly asks for comments.</i></p> <p>Are feedback reports published, explaining which recommendations from whom were accepted/not accepted, and why? <i>No</i></p>	<p>Expert working groups or taskforces</p> <p>Draft laws are posted on the website, and all interested parties or citizens can submit comments</p>	<ul style="list-style-type: none"> ▪ selected experts ▪ open invitation to all business associations ▪ open invitation to all interest groups ▪ open invitation to all NGOs ▪ general public

The Participatory Policymaking Process in REPUBLIC OF MOLDOVA – Policy Cycle Stages		
Review of parliamentary committee amendments	Forms of consultation	Participants invited to consultation
<p>When a draft law has been considered by a parliamentary committee, the publication of the committee’s proposed amendments is: <i>Non-existent</i></p> <p>Is a timeframe prescribed from publication of committee amendments to deadline for feedback and recommendations before the legislation goes to a final vote in parliament? <i>No</i></p> <p>Are feedback reports published, explaining which recommendations from whom were accepted/not accepted, and why? <i>No</i></p>	<p>None</p>	

UKRAINE

i. Access to Information

- *Freedom of information legislation*

The Constitution (including Article 15 on Censorship Prohibition and Article 34 on Freedom of Information), the Law on Information, and the Law on Access to Public Information, along with laws on the media and personal data, provide legal rights to access public information.⁹⁰

The laws on access to public information are applicable to all government authorities and government agencies at national, regional and local levels. The time limits for answers to public information requests are up to five working days (in general) and 48 hours (on requests related to the environment, food quality, emergencies or disasters).⁹¹ The time limit can be extended to 20 working days if the preparation of the information requires the processing of large amounts of information. Public information shall be provided free of charge. The national government can set maximum fees for copying extensive papers (10 pages or more), but not for copying personal data or data of public interest.⁹²

The 2015 Law of Ukraine obliges state and local government authorities to publish information in the form of open data on their web sites and on the corresponding central website, **data.gov.ua**.

- *Disclosure of public finances and legislative proposals*

The Budget Code of Ukraine (2010) (Articles 21-28) requires publication of budget forecasts for two-year periods for national, regional and local government.⁹³ It also requires expenditure statements for completed financial periods, which are published on the website of the Ministry of Finance. In 2015, Ukraine adopted a

⁹⁰ Constitution: <http://zakon5.rada.gov.ua/laws/show/254%D0%BA/96-%D0%B2%D1%80>; Law on Information (1992, as amended 2005): <http://zakon5.rada.gov.ua/laws/show/2657-12>; Law on Access to Public Information (2011): <http://zakon5.rada.gov.ua/laws/show/2939-17>; Law on Printed Mass Media (Press) in Ukraine (1992, as amended 2015): <http://zakon5.rada.gov.ua/laws/show/2782-12>; Law on Television and Radio Broadcasting (1993): <http://zakon5.rada.gov.ua/laws/show/3759-12>; Law on Public Television and Radio Broadcasting (2014): <http://zakon5.rada.gov.ua/laws/show/1227-18>; Law on Personal Data Protection (2010): <http://zakon5.rada.gov.ua/laws/show/2297-17>

⁹¹ Law on Access to Public Information, Article 20.

⁹² Law on access to Public Information, Article 21.

⁹³ Budget Code: <http://zakon4.rada.gov.ua/laws/show/2456-17>

law on the transparency of public finances, which includes extensive regulations on the disclosure of public finances, covering the National Bank, social insurance funds, and state-owned companies.⁹⁴ The law provides for the publication of data on public finance expenditure and transactions of the State Treasury in real time on a single web-portal, **e-data.gov.ua**. From 1 August 2016, all procedures and decisions concerning tenders in Ukraine (if the estimated value exceeds € 133,000) must be published on the central e-procurement platform.⁹⁵

Web portals publishing information about new legislation and policies include:

- Parliament (including draft legislation): **rada.gov.ua**
- National legislature portal: **<http://zakon5.rada.gov.ua/laws/main>**
- President of Ukraine portal: **president.gov.ua**
- National Government portal: **kmu.gov.ua** and **civic.kmu.gov.ua**
- Ministry of Justice: **<https://minjust.gov.ua/ua>**

According to the Cabinet of Ministers Regulation No. 996 on Ensuring Public Participation in the Formulation and Implementation of Public Policy, 3 November 2010, national and local executive bodies are obliged to publish draft acts for discussion on their websites under specially designated headings.⁹⁶ However, local government authorities in many smaller towns and in rural areas do not have websites yet.

ii. Direct Democracy

▪ *Direct elections*

There are direct elections for the Parliament (*Verkhovna Rada*) and the President. All regional, district and municipal councils, as well as mayors, are also chosen by direct elections. The heads of the executive authorities in regions, districts, and Kyiv City and Sevastopol City are nominated by the Cabinet of Ministers, and appointed and dismissed by the President.⁹⁷

⁹⁴ Law on Transparency of Use of Public Funds (2015): <http://zakon3.rada.gov.ua/laws/show/183-19>

⁹⁵ Law on Public Procurement (2015): <http://zakon3.rada.gov.ua/laws/show/922-19>

⁹⁶ http://civic.kmu.gov.ua/consult_mvc_kmu/news/article/show/855

⁹⁷ Law on Local State Administrations (1996): <http://zakon4.rada.gov.ua/laws/show/586-14>

- *National and local referenda*

National referenda can be held and are binding. Any policies or laws can be decided by national referenda, except issues of taxation, budgeting, and amnesties. However, for a citizens' initiative to succeed in calling a referendum, 3 million signatures of eligible voters are required, including at least 100,000 signatures from each region.⁹⁸

Although Article 7 of the Law on Local Government (1997) allows binding referenda for any issues of municipal scope,⁹⁹ the law on local referenda was abolished in 2012, so this right can no longer be implemented. A new law was under preparation as of April 2016.

- *Public initiatives and petitions*

Ukrainian citizens have the right to submit online petitions to the Parliament, the President, and the Cabinet of Ministers. Review of the petitions by the authorities is mandatory if 25,000 signatures have been collected via official websites or NGOs' websites. The signatures must be collected within a period of three months and, within three days following the submission of the petition, the authorities must publish on official websites the fact that the petition is now being reviewed. Upon publication, the authorities then have 10 working days to complete the review. The decisions should be disclosed on official websites the day after the review is completed.

Unless municipal charters stipulate minimum numbers of signatures and the deadlines for their collection, online petitions to local government authorities require the collection within a three-month period of between 50 and 1,000 signatures (the minimum number of signatures rises in line with the number of inhabitants of the locality, reaching 1,000 in the case of 1 million or more inhabitants).¹⁰⁰

The Law on Local Government (Article 9) allows public initiatives on any issue under the competences of local government. The minimum number of signatures, deadlines, and other procedures may be stipulated by local councils or in municipal charters, and are often burdensome for citizens. The review of

⁹⁸ Law on All-Ukrainian Referenda (2012): <http://zakon5.rada.gov.ua/laws/show/5475-17>

⁹⁹ Law on Local Government: <http://zakon5.rada.gov.ua/laws/show/280/97-%D0%B2%D1%80>

¹⁰⁰ Law on Individual Petitions (2015, amended): <http://zakon3.rada.gov.ua/laws/show/577-19>

public initiatives at plenary meetings of local councils with the participation of the initiators is mandatory, as is disclosure of the subsequent decisions.¹⁰¹

Any mayors or deputies of regional and local councils can be recalled from office through a public initiative as early as one year after their election. The minimum number of signatures and the deadlines for their collection are outlined in the Law on Local Elections.¹⁰² From 1995-2001, it had been possible to recall Members of Parliament under public initiatives,¹⁰³ but subsequently court decisions were required. The new Law on Civil Service (effective from May 2016) does not allow the recall of public officials through public initiatives (however, 18 groups – including local deputies, mayors, judges, prosecutors and others – are not covered by the new Law on Civil Service; instead, they are subject to special laws vis-à-vis their public service status and dismissals).

iii. Laws and Procedures to Facilitate Participatory Policymaking

▪ *Open Government Partnership*

Ukraine joined the Open Government Partnership in 2012. The Government has an OGP Action Plan for 2014-2015, which refers to 16 CSOs as partners in specific law-making and policymaking activities.¹⁰⁴ The Action Plan also covers regional authorities.¹⁰⁵ The commitments in the Action Plan include the promotion of the engagement of civil society in the management of public institutions, and the development of a law on public consultations.

In line with the Action Plan, a Law on Open Data was developed and passed in 2015. The new law obliges public authorities and local government to publish information in the form of open data on their websites and a central open data website: **data.gov.ua**.

¹⁰¹ <http://zakon3.rada.gov.ua/laws/show/280/97-%D0%B2%D1%80>; more details on local procedures for public initiatives are available at: <http://civil-rada.in.ua/?p=2079>; or www.mrada.if.ua/internetpr/2015-07-16-12-23-40/7027--q-q.html

¹⁰² Law on Local Elections: <http://zakon3.rada.gov.ua/laws/show/595-19/print1452676040631668>

¹⁰³ Law on Recall of National Deputies: <http://zakon3.rada.gov.ua/laws/show/396/95-%D0%B2%D1%80>

¹⁰⁴ <http://zakon2.rada.gov.ua/laws/show/1176-2014-%D1%80>

¹⁰⁵ http://civic.kmu.gov.ua/consult_mvc_kmu/news/article/show/2693

- *Green Papers*

The practice of publishing Green Papers is optional and limited (for instance, Green Papers on a draft tax code were published by the Ministry of Finance in 2014). However, the concepts of national target programmes and laws are essentially Green Papers, and they are subject to public consultations.¹⁰⁶ Regional authorities can initiate regional target programmes, and their concepts are also subject to public consultations.

- *Public consultations on draft laws and policies*

There are a series of laws governing the participation of CSOs and other stakeholders in policymaking, as follows:

- Law on Verkhovna Rada (Parliament) (2010);¹⁰⁷
- Law on Social Dialogue (2010);¹⁰⁸
- Law on Regulatory Policies (2003);¹⁰⁹
- Cabinet Resolution No. 950 on Approval of Regulations of Cabinet of Ministers (2007 as amended in 2014);¹¹⁰
- Cabinet of Ministers Regulation No. 996 on Ensuring Public Participation in the Formulation and Implementation of Public Policy, 3 November 2010.¹¹¹

It is obligatory during the law-drafting process to take due consideration of expertise, if applicable, on corruption risks, discrimination, regional or local development, social dialogue, regulatory impact assessments, impacts on the labour market, opinions of expert institutions (such as the National Academy of Science), and obligatory public consultations. Every government institution, including ministries, regional authorities, and the whole branch of the executive body, is obliged to publish legislative initiatives on its respective website for further consultations with civil society. Special sections have therefore been launched on the websites of executive authorities. Moreover, legislative initiatives under development by the executive authorities are placed on the government website, “Civil Society and Governance” (**civic.kmu.gov.ua**), where anyone can support such proposals or submit their own proposals.

¹⁰⁶ Law on National Target Programmes (2004, Articles 6-7): <http://zakon4.rada.gov.ua/laws/show/1621-15>

¹⁰⁷ <http://zakon5.rada.gov.ua/laws/show/1861-17>

¹⁰⁸ <http://zakon5.rada.gov.ua/laws/show/2862-17>

¹⁰⁹ <http://zakon4.rada.gov.ua/laws/show/1160-15>

¹¹⁰ <http://zakon4.rada.gov.ua/laws/show/950-2007-%D0%BF>

¹¹¹ <http://zakon4.rada.gov.ua/laws/show/996-2010-%D0%BF>

General procedures for public consultations, policy expertise and involvement of stakeholders in advisory bodies of national authorities are set out in the Cabinet of Ministers Regulation No. 996 (2010).¹¹² Additional procedures include the Government's Methodologies for Regulatory Impact Assessments,¹¹³ and procedures for environmental protection and urban development.¹¹⁴

Regional executive authorities are subject to the same regulations as national authorities. General procedures are optional for local authorities, but nearly all city councils have civic advisory boards. Local government authorities are legally obliged to undertake regulatory impact assessments, and to meet special standards on urban development and the environment, as well as consult environmental experts, but other standards for the involvement of CSOs and other stakeholders are set out in their own by-laws.

The Cabinet of Ministers Regulation No. 996 requires mandatory public consultations for a range of issues (constitutional rights and freedoms, administrative services, environment, nuclear safety, national strategies or programmes, CSOs' status and funding, budget planning and reporting).

Regional executive authorities are subject to the national regulations on mandatory consultations. Municipal authorities have the option of following these regulations or stipulating such regulations in their by-laws (e.g. in city charters). Regulation No. 996 obliges national and local executive authorities to approve annual plans for public consultations around government programmatic activities and legislative proposals. Any CSO can submit proposals for government action, or initiate a public consultation. In the event that such a proposal is submitted by three or more CSOs, the launch of consultations is mandatory.

The Law on Verkhovna Rada and the Law on Cabinet of Ministers require consultations among all interested ministries, authorities and agencies on policy or legislative proposals. Parliamentary committees review all draft laws, unless there is a special urgent lawmaking procedure. Parliamentary committees usually involve civil society and/or independent experts in their meetings or hearings, although these consultations are not binding, and their results are not published.

¹¹² <http://zakon4.rada.gov.ua/laws/show/996-2010-%D0%BF>

¹¹³ <http://zakon4.rada.gov.ua/laws/show/308-2004-%D0%BF>

¹¹⁴ <http://zakon4.rada.gov.ua/laws/show/771-2011-%D0%BF>; <http://zakon4.rada.gov.ua/laws/show/555-2011-%D0%BF>

There is co-ordination of consultations. The Law on Social Dialogue regulates tripartite commissions at national, regional and local levels.¹¹⁵ The Law on Regulatory Policies regulates such consultations via the state regulatory service.¹¹⁶ The laws on social dialogue, on regulatory policies, and on civic associations require public consultations at national, regional or local levels.

The Cabinet of Ministers' Secretariat provides monitoring and analysis of consultations with civil society at national and regional level.¹¹⁷ There is no co-ordinating agency for consultations at the local level.

Complaints about non-consultation can be submitted to the Cabinet of Ministers' Secretariat. The Judicial Administrative Code provides for claims procedures against the decisions or inactivity of any public authority, but not specifically on non-consultation.¹¹⁸ Complaints can also be referred to the office of the Ombudsman.¹¹⁹

▪ *Dialogue and partnership mechanisms/forums*

There are no specific procedures on participatory national budget planning in the Law on Verkhovna Rada (Articles 152-162). However, non-binding public hearings on the draft national budget laws can be held by decision of the Verkhovna Rada or Government (this happened in December 2014, for example). According to the Government Regulation, all executive authorities are obliged to consult with the public regarding public expenditure reports. Local councils are not required to hold participatory procedures on budgets, but it is becoming common practice.¹²⁰ Usually, these procedures are implemented in the form of online consultations and public events (such as public hearings, special working groups, or conferences).

Procedures are also in place to facilitate public participation in planning, namely the Law on Regulation of Urban Development (2011),¹²¹ and the Cabinet of Ministers Regulation No. 772 on Public Hearings for Nuclear Energy and Nuclear

¹¹⁵ National Mediation and Conciliation Service: www.nspp.gov.ua

¹¹⁶ www.dkrp.gov.ua

¹¹⁷ http://civic.kmu.gov.ua/consult_mvc_kmu/news/article/img_lst/867

¹¹⁸ <http://zakon4.rada.gov.ua/laws/show/2747-15>

¹¹⁹ Law on Human Rights Ombudsman (1997): <http://zakon4.rada.gov.ua/laws/show/776/97-%D0%B2%D1%80>; Cabinet of Ministers' Regulation on Business Ombudsman (2014): <http://zakon4.rada.gov.ua/laws/show/691-2014-%D0%BF>

¹²⁰ See <https://www.facebook.com/events/931488556936878>, and www.rada.cherkasy.ua/ua/noticeread.php?s=1&s1=94&view=883

¹²¹ <http://zakon4.rada.gov.ua/laws/show/3038-17>

Safety (2006).¹²² These provisions are binding for policymaking at national, regional and local level. Municipal authorities may have additional non-binding provisions.

The selection mechanisms for inviting CSO representatives to participate in policymaking consultations are neither clear nor transparent except in the case of social dialogue representatives. Other representative bodies are selected on a case-to-case basis or following applications by interested CSOs (e.g., advisory boards at ministries). All national and local executive authorities set up advisory committees. The Cabinet of Ministers Regulation No. 996 approved the procedure for the formation of the consultative advisory committees.

The Cabinet of Ministers' Secretariat reports that up to 10% of public hearings or public consultations at national level are held without an online announcement.

- *Advance notice and feedback on draft initiatives*

The Cabinet of Ministers Regulation No.996 provides for a minimum of 15 days for public consultations. Usually, these deadlines are met, or they are prolonged up to 30 days or longer if the issue is of high importance. However, a number of politically sensitive draft laws are reviewed without any public consultations (for instance on national budget and tax code amendments). Consultations on environmental and urban planning documentation must continue for at least 30 days. A consultation regarding regulatory acts must continue for at least one month and be concluded within three months. While regional authorities are subject to the Cabinet of Ministers Regulation, municipal authorities regulate deadlines according to their own by-laws, if any.

Written feedback is generally not published by the Government in response to recommendations made during the consultation process. Regulation No. 996 requires publication by the respective ministry or national authority of reports on the results of public consultations within two weeks after the relevant decisions have been made. However, only one in three national authorities provide detailed feedback (often owing to the absence of proposals from the public).¹²³ While regional authorities are subject to Regulation No. 996, municipal authorities give written feedback in line with their own by-laws, if any.

¹²² <http://zakon4.rada.gov.ua/laws/show/772-2006-%D0%BF>

¹²³ http://civic.kmu.gov.ua/consult_mvc_kmu/consult/poll/statistics

- *Monitoring and evaluation*

Different laws set out rules and procedures for monitoring and evaluation, for instance in budget planning, regulatory impact assessments, and long-term national programmes. The National Agency for Corruption Prevention is scheduled to develop binding rules, while special agreements are already in place with donors to provide for monitoring and evaluation in specific sectors (for instance, HIV/AIDS prevention, financial services, energy). The Government Regulation also approves the facilitation of public scrutiny of the activities of the executive branch, including the implementation of laws and policies.

The Cabinet of Ministers approved regulations on expert consultations in anti-discrimination policies (2013),¹²⁴ in urban development,¹²⁵ and also in the Monitoring and Evaluation of Regional Development Strategies or Plans (2015).¹²⁶

iv. Resources and Enabling Environment

- *Civil society freedoms*

The laws provide for CSOs to enjoy freedom of expression, to monitor public policymaking and implementation, and to receive funding from individuals, corporations and foreign donors to conduct such monitoring.¹²⁷

- *State budgets and staffing for participatory policymaking*

The Methodological Recommendations on Participatory Policymaking Procedures (2008) serve as a manual outlining the participatory process in reviewing draft laws and policies, although these recommendations have no status in law.¹²⁸ In 2016, extensive amendments to these recommendations were being developed.

¹²⁴ <http://zakon4.rada.gov.ua/laws/show/61-2013-%D0%BF>

¹²⁵ <http://zakon4.rada.gov.ua/laws/show/548-2011-%D0%BF>

¹²⁶ <http://zakon4.rada.gov.ua/laws/show/932-2015-%D0%BF>; <http://zakon4.rada.gov.ua/laws/show/856-2015-%D0%BF>

¹²⁷ Law on Prevention and Combating Discrimination in Ukraine (2012): <http://zakon4.rada.gov.ua/laws/show/5207-17>; Law on Civic Associations (2012): <http://zakon4.rada.gov.ua/laws/show/4572-17>; Tax Code (2010 as amended in 2015): <http://zakon4.rada.gov.ua/laws/show/2755-17>

¹²⁸ http://civic.kmu.gov.ua/consult_mvc_kmu/news/article/1st/1580

All national executive authorities, in particular ministries, have legal and analytical units. It is their responsibility to analyse the implementation of legislation and policies in their respective fields of competence, and to develop draft laws and regulatory frameworks. There is no distinct budget for policy analysis or drafting of laws within the general budget of the ministries. In addition, almost all ministries have scientific research institutes that undertake studies in the corresponding fields of public policy. More long-term evaluations are usually made the by National Institute for Strategic Studies.¹²⁹

The Ministry of Justice evaluates all legislative proposals from the ministries (including compliance with EU legislation, human rights, anti-corruption standards, gender equality, and anti-discrimination criteria). All draft acts submitted to the Cabinet of Ministers have to be agreed with the Ministry of Finance and the Ministry for Economic Development.

The Secretariat of the Cabinet of Ministers scrutinises all legal drafts for compliance with the Government's programme, and for consistency with other legislative acts. The Secretariat evaluates the effectiveness of the proposed solution, the realism of the targets, the adequacy of the financial and economic calculations, and undertakes regulatory impact analysis. Because this is the main task of the Secretariat, this item of expenditure is not specified in the general budget.

Public consultations are conducted by the units responsible for the drafting of acts in co-operation with the public relations departments. Typically, public relations departments are responsible for interaction with CSOs and the media, and for updating websites. Usually, national authorities have no special co-ordinators for public consultations and other participatory procedures. PR or communications division managers fulfil these functions. There is no separate budget line for co-ordination of public consultation. The costs are absorbed into the general budgets of the respective ministries and other executive authorities. Donor funds are sometimes secured to cover public consultations.

The Cabinet of Ministers' Secretariat delivers annual trainings for PR divisions of national authorities and regional state administrations (at least 100 civil servants). Trainings for district state administrations on co-ordination of public consultations were held in 2013, and were scheduled for 2016 as well. Regional and local authorities deliver such trainings on a case-to-case basis. The National

¹²⁹ www.niss.gov.ua

Academy of Public Administration and regional centres of excellence for civil servants and local government officials deliver practical courses within their public relations modules.

In Ukraine, at least 50 CSOs have advanced experience in policy drafting and monitoring (Razumkov Center, International Centre for Policy Studies, Center for Political and Legal Reforms, Center for Educational Policies, Center for Independent Political Research, EIRCenter, CASE Ukraine, and others). CSO trainings in policy drafting and expertise are also quite common; at least, 30-40 such trainings are held in different regions every year.¹³⁰

Number of Civil Servants from Central and Local Executive Authorities and Local Government Officials that have Undergone Training in the National Academy of Public Administration under the President of Ukraine and Regional Training Centres						
Trainings in:	Civil servants			Local government officials		
	2013	2014	2015	2013	2014	2015
Policymaking and policy analysis	2,885	2,870	3,714	2,557	1,787	2,735
Participatory policymaking and public consultation processes	1,413	1,551	1,638	1,310	1,104	881

Source: National Civil Service Agency of Ukraine

The programmes of the National Academy of State Administration and the regional centres for training of civil servants and local government officials include a course on citizens’ participation and policy analysis. Funding is provided from the state budget of the National Academy of Public Administration, while the regional centres of excellence are funded from regional budgets.

¹³⁰ For instance, see http://toro.org.ua/news?news_id=16, <http://tamarisk.org.ua/trening-osnovi-gromadskoyi-ekspertizi>, and <http://advocacy.strikingly.com>

The Participatory Policymaking Process in UKRAINE – Policy Cycle Stages		
Green Paper prior to drafting legislation	Forms of consultation	Participants invited to consultation
<p>The preparation of Green Papers is: <i>Occasional/ad hoc</i></p> <p>When a Green Paper has been prepared, the publication of the Green Paper is: <i>Occasional/ad hoc</i></p> <p>If there is a Green Paper, is a timeframe prescribed from publication to deadline for feedback and recommendations? <i>No</i></p> <p>Are feedback reports published concerning Green Papers, explaining which recommendations from whom were accepted/not accepted, and why? <i>No</i></p>	Public hearings	<ul style="list-style-type: none"> ▪ selected experts ▪ selected business associations ▪ government-selected interest groups
First draft of legislation	Forms of consultation	Participants invited to consultation
<p>When a draft law has been prepared, the publication of the draft law is: <i>Mandatory</i></p> <p>Is a timeframe prescribed from publication to deadline for feedback and recommendations? <i>No</i></p> <p>Are feedback reports published, explaining which recommendations from whom were accepted/not accepted, and why? <i>No</i></p>	Expert working groups or taskforces	<ul style="list-style-type: none"> ▪ selected experts ▪ selected business associations
	Roundtables	<ul style="list-style-type: none"> ▪ selected experts ▪ selected business associations ▪ government-selected interest groups ▪ government-selected NGOs
	Online consultations inviting input	<ul style="list-style-type: none"> ▪ general public

The Participatory Policymaking Process in UKRAINE – Policy Cycle Stages		
Parliamentary review of legislation	Forms of consultation	Participants invited to consultation
<p>Are parliamentary committee meetings reviewing draft laws announced in advance with the public and interested parties invited to attend? Yes</p>	<p>Expert working groups or taskforces</p>	<ul style="list-style-type: none"> ▪ selected experts ▪ selected business associations ▪ government-selected interest groups ▪ government-selected NGOs
<p>Is a timeframe provided to announce the review meeting with advance notice? <i>No (the review committee has up to 30 days, but usually without the public)</i></p> <p>Is a timeframe prescribed from launch of parliamentary review to deadline for feedback and recommendations? No</p> <p>Are feedback reports published, explaining which recommendations from whom were accepted/not accepted, and why? No</p>	<p>Roundtables</p>	<ul style="list-style-type: none"> ▪ government-selected interest groups ▪ open invitation to all interest groups ▪ government-selected NGOs

The Participatory Policymaking Process in UKRAINE – Policy Cycle Stages		
Review of parliamentary committee amendments	Forms of consultation	Participants invited to consultation
<p>When a draft law has been considered by a parliamentary committee, the publication of the committee's proposed amendments is: <i>Mandatory</i></p> <p>Is a timeframe prescribed from publication of committee amendments to deadline for feedback and recommendations before the legislation goes to a final vote in parliament? <i>Yes</i></p> <p>If so, how long do interested parties have to provide their input? <i>14 days</i></p> <p>Are feedback reports published, explaining which recommendations from whom were accepted/not accepted, and why? <i>Yes (but usually grounds are not explained)</i></p> <p>If so, how soon after the end of the consultation period are these published? <i>At least 10 days before the second reading (these deadlines are not met in common practice).</i></p>	<p>Public hearings</p> <p>Parliamentary committee meetings</p>	<ul style="list-style-type: none"> ▪ general public ▪ selected experts ▪ selected business associations ▪ general public

V. FINDINGS

This study has highlighted a number of areas that are key to effective and inclusive political decision-making, and has analysed the participatory policymaking process at different stages of the policy cycle in the six Eastern Partnership countries, including an assessment of which countries invite different participants to engage in the different stages. The following findings serve specifically for the six Eastern Partnership countries, but are also generally valid for all member countries of the Council of Europe:

- **Free access to information** is essential for civil society organisations and the public to make informed choices as democratic citizens, and to provide professional, evidence-based recommendations for new laws and policies. Open government and participatory policymaking will have a more informed set of stakeholders if Belarus revises its freedom of legislation in line with the laws in the majority of Council of Europe members, in particular by removing the legal exemptions that allow for non-provision of information of public interest.
- **Detailed annual budgets and expenditure statements** at central, regional and local levels of government make possible evidence-based assessment of draft laws and policies, and facilitate the monitoring of implementation of policies. Likewise, more participatory planning – of not only budgeting, but also urban planning and other key areas of planning that affect urban and rural communities – can strengthen citizens’ ownership of policy decisions that affect their communities.
- **Government websites that are easily navigable**, so that citizens can access information from central, regional and local tiers of government, are a prerequisite of modern, open government in the electronic age. The websites should include not only existing legislation, decisions, procedures, and strategy documents, but also draft decisions, draft laws, and Green Papers drawn up in advance of the drafting process.
- **Civil participation in political decision-making will be informed and inclusive if advance notice of public consultation processes is provided** to all stakeholders and the general public, and at least 30 days should be provided for public and expert comments on public policy initiatives – at each stage of review (Green Paper, draft law, parliamentary review, and subsequent review after parliamentary amendments). Feedback should be provided within 30 days on each stage of review, stating which recommendations or proposed amendments

were made and by whom, which recommendations or amendments were accepted, and which were not, and why.

- **Citizens' initiatives**, including the right to make legislative proposals, when given legal status, are an important addition to the tools of direct democracy, alongside referenda, petitions, and direct elections.
- **Within the framework of the Open Government Partnership, opportunities for public participation and access to information, in particular open data portals, have been further strengthened.** The Open Government Partnership should be embraced by governments and civil society as a forum for increased co-operation on decision-making and for strengthening accountability at the national and local level. It should also be used to strengthen joint initiatives on open data, so that public authorities can serve communities better through provision of greater access to information, and through co-operation to enhance the use of empirical data to inform and improve decision-making at all levels.
- The adoption of **Green Papers** enables legislation and decisions to be adopted after a thorough impact assessment and stakeholder analysis, creating for much more sustainable decisions and laws with greater ownership by the public and interested parties, including civil society, social partners, and local communities.
- **Public consultations at central, regional and local level should become standard practice** as they not only give citizens, civil society, social partners, and other interest groups more ownership of decision-making, but they also enhance impact assessment exercises, and improve the quality and sustainability of the resulting decisions and laws.
- **Public consultations should as standard practice include online consultations, expert working groups, and public hearings** before a draft law reaches parliament. Further hearings with the public and interested parties should also be held at the parliamentary committee stage of legislative review.
- **Effective, high-quality policies and laws require clear procedures, professional drafting skills, and a thorough consultative drafting process.** Government ministries and other policymaking authorities should be equipped with the staffing resources and training programmes to manage professionally the policymaking and law-drafting phases, and to manage the public dialogue processes in an efficient and transparent manner.

- **Monitoring and evaluation of the implementation of policies and decisions at central and local government level should be mandatory**, and should include the participation of civil society and independent experts in the review process.
- **Civil society organisations in the six Eastern Partnership countries should equip themselves with expertise in the drafting of legislation**, as well as in monitoring implementation and public expenditure, in order to establish CSOs as partners that add value to good governance, in terms of value for money, accountability to citizens, and responsiveness to the needs and interests of local communities, other stakeholders, and the environment.
- For the members of the Council of Europe, a set of clearly agreed **guidelines aimed at promoting civil participation in political decision-making** will be a positive development that can foster further reforms in the policymaking process such that consultative participatory procedures become a mutually beneficial exercise, serving all stakeholders who have an interest in quality policymaking and effective policy outcomes. Such guidelines should include the pre-drafting phase before a draft law is submitted to Parliament, and should consider the need for thorough training in the drafting of legislation and in managing effective public consultations around policymaking and law-making. Wherever possible, training programmes should bring together both public officials and civil society experts to strengthen the common purpose of working together to develop quality laws that foster sustainable development and prosperity for all citizens.
- **The Governments of the six Eastern Partnership countries have an opportunity to build on existing standards and good practice** in policymaking and the drafting of legislation and, through strengthening training of public officials in the policy process, and holding effective consultations around new draft laws and policies, they can look forward to constructive co-operation with CSOs, and to improvements in the quality of legislation to the benefit of all their citizens.

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Regional Project “Civil Participation in Decision Making in the Eastern Partnership Countries”

AIMS

- ▶ Promote the effective interaction between civil society and public authorities;
- ▶ Stimulate the participation of civil society actors in the democratic decision making process;
- ▶ Strengthen civil society in the region.

ACTIVITIES

- ▶ Working group meetings, awareness-raising actions, workshops;
- ▶ Preparing two regional studies on strategic and immediate priority issues;
- ▶ Multilateral regional conferences on relevant issues, notably those covered by the studies;
- ▶ Drafting a regional strategy for promoting civil participation in decision-making.

www.coe.int/ngo

<http://pjp-eu.coe.int>

ENG

The Council of Europe is the continent's leading human rights organization. It includes 47 member states, 28 of which are members of the European Union. All Council of Europe members states have signed up to the European Convention on Human Rights, a treaty designed to protect human rights, democracy and the rule of law. The European Court of Human Rights oversees the implementation of the Convention in the member states.

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