State Regulation of Organized Civil Society in Hybrid Regimes: A Systematic Assessment of Cross-National Variations in the Regulation of Civil Society Organizations in Seven Post-Soviet Countries

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Abstract

How do the post-Soviet countries differ in their regulatory approaches to organized civil society? This study provides a systematic and comprehensive assessment of relative differences and similarities in the regulation of civil society organizations in seven post-Soviet countries: Armenia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, and Ukraine. Empirically, the study offers a regulatory index that makes it possible to map and compare relative differences and similarities between these countries' regulatory approaches to civil society. The findings show that post-Soviet authoritarian countries do not use similar levels of repression against organized civil society. The study provides an account of how different political configurations explain relative differences in the extent to which post-Soviet authoritarian countries repress their respective civil societies.

Keywords

post-Soviet countries – civil society – state regulation – authoritarianism

1 Introduction

Over the last two decades, interest in studying state regulation of organized civil society has increased across various disciplines in the social sciences.[1] The term "organized civil society," as used in this study, refers to a wide variety of civil society organizations (CSOs), which are *non-governmental*, *non-profit distributing*, and *formally organized*.[2] This definition covers nongovernmental organizations, lobbying and interest groups, community and grassroots associations, and other nonprofit organizations that involve some degree of voluntary participation and are built by citizens to promote collective or public-interest objectives.[3] "State regulation," as used here, refers to a particular set of legal regulations "adopted in the respective jurisdictions that are binding to the actors they apply to."[4] State regulation is widely considered to be an important source and channel for developing civil society organizations because it imposes legal frameworks that "direct or encourage activities which […] would not occur without such intervention."[5]

This study builds on the premise that all states attempt to regulate civil society and that regulations can either constrain or enable the activities of civil society organizations. The regulations can enable these activities by permitting certain categories of actions or by providing access to certain state resources (e.g., in the form of tax exemptions) and they can constrain them by proscribing or sanctioning certain behaviors.[6] This is also true of countries that are considered to be nondemocratic, such as the former post-Soviet countries, which in the past have variously been referred to as "semi-democratic,"

1 Elizabeth A. Bloodgood, Joannie Tremblay-Boire, and Aseem Prakash, "National Styles of NGO Regulation," *Nonprofit and Voluntary Sector Quarterly* 43, no. 4 (2014): 716–36; Nicole Bolleyer, *The State and Civil Society: Regulating Interest Groups, Parties and Public Benefit Organizations in Contemporary Democracies* (Oxford: Oxford University Press, 2018); Jonathan Garton, *The Regulation of Organised Civil Society* (Portland, OR: Hart Publishing, 2009).

2 Lester M. Salamon and Helmut K. Anheier, "Social Origins of Civil Society: Explaining the Nonprofit Sector Cross-Nationally," *Voluntas: International Journal of Voluntary and Nonprofit Organizations* 9, no. 3 (1998): 213–48, here 216; Lester M. Salamon and Helmut K. Anheier, "In Search of the Non-Profit Sector I: The Question of Definitions," *Voluntas: International Journal of Voluntary and Nonprofit Organizations* 3, no. 2 (1992): 125–51, 142.

3 Salamon and Anheier, "In Search of the Non-Profit Sector I," 142.

4 Bolleyer, *The State and Civil Society*, 3.

5 Garton, *The Regulation of Organised Civil Society*, 5.

6 Bloodgood et al., "National Styles of NGO Regulation," 718; Bolleyer, *The State and Civil Society*, 35.

"authoritarian," "(neo-)patrimonial," or "hybrid."[7] It is also believed that regulating civil society is vital for autocracies, since "NGOs possess resources that disaffected elites can mobilize to overthrow ruling elites."[8] According to Møller and Skaaning, this can generally be explained by the lack of legitimacy of authoritarian rulers, which forces them to resort to coercion in order to protect themselves from being overthrown.[9]

Various studies have been conducted on state regulation of organized civil society in the former Soviet countries.[10] However, most of the literature focuses on the regulation of civil society in particular countries or on a more general level, without providing any systematic assessment of cross-national variations in the regulation of CSOs from a comparative perspective. Rather than distinguishing different levels of repression, these studies consider all post-Soviet countries to use the same level of state repression on civil society. Central to the entire literature on CSOs in the region is the argument that civil society organizations are engulfed by the state with the result that, as Laruelle noted in her study of ethnic minority associations in Kazakhstan, civil society

7 Larry J. Diamond, "Thinking about Hybrid Regimes," *Journal of Democracy* 13, no. 2 (2002): 21–35; Steven Levitsky and Lucan A. Way, "Elections without Democracy: The Rise of Competitive Authoritarianism," *Journal of Democracy* 13, no. 2 (2002): 51–65; Marina Ottaway, *Democracy Challenged: The Rise of Semi-Authoritarianism* (Washington, DC: Carnegie Endowment for International Peace, 2003). In the context of this study, "non-democratic" simply means that the states included are not yet consolidated democracies. A consolidated democracy is a political regime "in which democracy as a complex system of institutions, rules, and patterned incentives and disincentives has become, in a phrase, 'the only game in town'" (Juan J. Linz and Alfred Stepan, *Problems of Democratic Transition and Consolidation: Southern Europe, South America, and Post-Communist Europe* [Baltimore, MD: The Johns Hopkins University Press, 1996], 15). Based on this definition, none of the post-Soviet countries can currently be considered a consolidated democracy.

8 Christopher Heurlin, "Governing Civil Society: The Political Logic of NGO—State Relations under Dictatorship," *Voluntas: International Journal of Voluntary and Nonprofit Organizations* 21, no. 2 (2010): 220–39, 225.

9 Jørgen Møller and Svend-Erik Skaaning, *Democracy and Democratization in Comparative Perspective: Conceptions, Conjunctures, Causes and Consequences* (New York City, NY: Routledge, 2013), 87.

10 Scott Horton and Alla Kazhakhina, "The Legal Regulation of NGOs: Central Asia at a Crossroads," in *Civil Society in Central Asia*, ed. M. Holt Ruffin and Daniel Waugh (Seattle, WA: University of Washington Press, 1999), 34–56; Marvin E. Nowicki, "Kazakhstan's Nonprofit Sector at a Crossroad on the Great Silk Road," *Voluntas: International Journal of Voluntary and Nonprofit Organizations* 11, no. 3 (2000): 217–35; Raymond J. Struyk, "Nonprofit Organizations as Contracted Local Social Service Providers in Eastern Europe and the Commonwealth of Independent States," *Public Administration and Development* 22, no. 5 (2002): 429–37.

organizations have been turned into "would-be civil society that is largely organized and managed by the state" and unable "to promote any political agenda of democratization."[11]

The main problem with such statements is that they tend to disregard important variations between the political opportunity structures for civil society in the different post-Soviet countries. A more specialized literature on this subject has advanced the view that autocracies, including the post-Soviet autocracies, vary in their political opportunity structures and, hence, their degree of repression of associational life.[12] For example, in his investigation of political opportunity structures for environmental CSOs in 71 autocracies between 1973 and 2003, Böhmelt found that "Autocracies vary in their political opportunity structures and, hence, their degree of repression: The less repressive they are, the more likely it is that ENGOs [environmental nongovernmental organizations] will be allowed and have opportunities to organize."[13] Despite this assertion, almost no research exists on such variations, particularly in the context of post-Soviet autocracies.

This article draws on these insights in important ways. It attempts to provide a more systematic and comprehensive assessment of relative differences and similarities in state regulation between the hybrid regimes that now form the Commonwealth of Independent States (CIS), focusing in particular on Armenia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, and Ukraine as case studies. All these post-Soviet countries have often been described as hybrid political regimes,[14] but although they all fit this classification, they differ in their level of repression of political and civil liberties. The U.S.-based organization Freedom House, which measures the level of civil and political freedoms around the world on an annual basis and rates them on a scale from 1 ("free") to 7 ("not free"), has ranked Russia, Kazakhstan and Tajikistan as "not

11 Marlène Laruelle, "Negotiating Social Activism: National Minority Associations in Kazakhstan, or The Other Face of 'Civil Society,'" in *Civil Society and Politics in Central Asia*, ed. Charles E. Ziegler (Lexington, KY: University Press of Kentucky, 2015), 111–34, 113.

12 Tobias Böhmelt, "Political Opportunity Structures in Dictatorships? Explaining ENGO Existence in Autocratic Regimes," *The Journal of Environment and Development* 23, no. 4 (2014): 446–71, 451; Heurlin, "Governing Civil Society," 224.

13 Böhmelt, "Political Opportunity Structures in Dictatorships?," 451.

14 Levitsky and Way, "Elections without Democracy;" Steven Levitsky and Lucan A. Way, *Competitive Authoritarianism: Hybrid Regimes After the Cold War* (Cambridge: Cambridge University Press, 2010), 183–235; Thomas Sedelius and Sten Berglund, "Towards Presidential Rule in Ukraine: Hybrid Regime Dynamics under Semi-Presidentialism," *Baltic Journal of Law and Politics* 5, no. 1 (2012): 20–45.

free" and Armenia, Kyrgyzstan, Moldova, and Ukraine as "partially free" for several consecutive years.[15]

On the basis of these assessments, one would expect civil societies in these countries not to be repressed to the same extent. In empirical terms, this study proposes a regulatory index of CSOs that makes it possible to compare and map the differences and similarities between the regulatory approaches of post-Soviet countries toward their civil societies, focusing primarily on regulations that apply to *public associations*, *noncommercial organizations*, *NGOs*, *grassroots organizations*, *foundations*, and *charities*—that is, the entirety of organizational forms that essentially constitute the emerging civil societies in the countries studied. However, this study does not focus on state regulation of political parties and trade unions.[16] Specifically, it addresses the following three questions:

- *What regulations are in place in post-Soviet countries that steer the presence and activities of membership-based, organized CSOs?*
- *What differences are there between the post-Soviet countries in terms of which activities of CSOs (political campaigning, funding, etc.) they are more likely to restrict or support?*
- *What broader factors can help us understand these variations?*

By focusing on differences and similarities in the regulation of civil society, this study aims to draw a more nuanced picture of cross-national differences in the level of repression that the post-Soviet countries use on their civil societies and, in so doing, close a gap in the literature. The article is organized as follows. The next section introduces civil society in post-Soviet countries more broadly. This section is followed by an introduction of the research design and methodology. The third section presents the index and discusses the findings. The final section discusses the factors that influence cross-national differences

15 Freedom House, "Freedom in the World 2019: Highlights from Freedom House's Annual Report on Political Rights and Civil Liberties," n.d., https://freedomhouse.org/sites/default/files/Feb2019_FH_FITW_2019_Report_ForWeb-compressed.pdf. Freedom House changed its measurement criteria in 2020. Countries must now achieve an overall score of 30 or better for civil liberties and an overall score of 20 or better for political rights to be considered an "electoral democracy." An electoral democracy is a political system that has met certain minimum standards for political rights and civil liberties.

16 For the purposes of this study, "civil society" is defined as an aggregate of societal organizations that are independent of the government. In the context of post-Soviet autocracies, trade unions and political parties are not independent of the state and are therefore not considered to be part of civil society (Markus Kaiser and Serik Beimenbetov, "The Role of Repatriate Organisations in the Integration of Kazakhstan's Oralmandar," *Europe-Asia Studies* 72, no. 8 [2020]: 1403–25).

in the regulation of organized civil society between the post-Soviet countries included in this study.

2 Civil Society in the Post-Soviet Countries Studied

One noteworthy feature of all post-Soviet countries is the growing presence of private and membership-based organizations built by citizens on a voluntary basis to promote private and public interest goals. The voluntary sector in post-Soviet countries did not evolve in earnest until the Soviet Union collapsed in the early 1990s.[17] In Soviet times, there were few signs of self-organization; only a small number of CSOs existed, and those that did were linked to the Communist Party, such as the youth organization Komsomol, Pioneer organizations, trade unions, and organizations that supported the armed forces.[18] Perestroika invigorated associational life somewhat and led to the emergence of environmental organizations across the region, such as the International Anti-Nuclear Movement "Nevada–Semipalatinsk" in Kazakhstan. After the collapse of the Soviet Union, all the newly independent states saw the rapid growth of CSOs, facilitated not least by donor assistance from abroad, making voluntary associations more diverse, visible, and robust.[19]

Since the collapse of the Soviet Union, the civil society sector has undergone remarkable developments in all the countries studied. It remains a significant sector today: it is engaged in a wide range of activities, including humanitarian and charitable work, education and training, the protection of marginalized and vulnerable social groups, the defense of human rights, and support for stability, peace, and democratization. Table 1 provides the approximate numbers of CSOs active in each country under study.

As of 2010, there were about 20,000 civil society organizations in Kazakhstan, of which 40% were public organizations, 29% were institutions, 24% were

17 Evelyn Zellerer and Dmitriy Vyortkin, "Women's Grassroot Struggles for Empowerment in the Republic of Kazakhstan," *Social Politics: International Studies in Gender, State and Society* 11, no. 3 (2004): 439–64, 459.

18 Meruert Makhmutova and Aitzhan Akhmetova, "Strengthening Civil Society: CIVICUS Civil Society Index 2008–2010: Analytical Country Report" (Almaty: Public Policy Research Center, 2011), 18.

19 Kimberley Bulkley, "Analysis of Nonprofit Organizations in Kazakhstan," *Oregon Review of International Law* 3 (2001): 3–11, 3; Tamara G. Nezhina and Aigerim R. Ibrayeva, "Explaining the Role of Culture and Traditions in Functioning of Civil Society Organizations in Kazakhstan," *Voluntas: International Journal of Voluntary and Nonprofit Organizations* 24, no. 2 (2013): 335–58, 338; Nowicki, "Kazakhstan's Nonprofit Sector at a Crossroad on the Great Silk Road," 221–22.

Table 1 Estimated numbers of CSOs in the countries studied (as of 2010)a

Country	Number of CSOs
Armenia	4,350
Kazakhstan	20,000
Kyrgyzstan	14,880
Moldova	8,750
Russia	101,847
Tajikistan	3,000
Ukraine	71,000

a To go into detail about the factors influencing the size of civil society organizations in the countries studied would be beyond the scope of this study. Suffice it to say that the size of civil society organizations depends on a variety of factors, including population size, the size of the urban middle classes, religion, and per-capita income (see Lester M. Salamon and Helmut K. Anheier, "The Third World's Third Sector in Comparative Perspective," working paper [Baltimore, MD: Johns Hopkins University, Institute for Policy Studies, 1997], 3–8). *Sources*: For Kazakhstan, Kyrgyzstan, Russia and Tajikistan, see "Obzor sostoianiia nepravitel'stvennogo sektora v Kazahstane i perspektivy razvitiia (Grazhdanskii Al'ians Kazahstana, Astana 2009)" [Review of the State of the Nongovernmental Sector in Kazakhstan and Development Prospects (Civil Alliance of Kazakhstan, Astana, 2009)], Almaty, November 21, 2009, http://www.zakon.kz/154623-obzor-sostojanija-nepravitelstvennogo.html; for Armenia, see Anna Walker, "Transition Report: Armenia," in *Nations in Transit: Democratization in East Central Europe to Eurasia*, ed. Jeannette Goehring (New York City, NY: Freedom House, 2007), 79–103; for Ukraine, see Orysia Lutsevych, "How to Finish a Revolution: Civil Society and Democracy in Georgia, Moldova, and Ukraine," briefing paper (London: Chatham House, 2013); and for Moldova, see Eastern Partnership Civil Society Facility, "Statistical Analysis on the Civil Society Sector in the Republic of Moldova: Infographics," August 23, 2018, https://eapcivilsociety.eu/news/project-news/statistical-analysis-on-the-civil-society-sector-in-the-republic-of-moldova-infographics.html.

foundations, and 7% were associations of juridical persons.20 According to the Ministry of Justice, half a million people were employed in the sector in 2009.[21] Most of the CSOs in Kazakhstan are concentrated in Almaty and Astana (now Nur-Sultan), the two largest cities of the country.[22] According to

20 Aliya Kabdiyeva, "Developing Sustainable NGOs in Kazakhstan," *Asian Social Science* 9, no. 7 (2013): 299–305, 299.

21 Makhmutova and Akhmetova, "Strengthening Civil Society," 20.

22 According to Nezhina and Ibrayeva, 32% of all CSO were located in Almaty ("Explaining the Role of Culture and Traditions in Functioning of Civil Society Organizations in Kazakhstan," 343). This figure may have changed since the capital was moved to Astana in 1997, and especially since 2002, when the data were collected.

various sources, there were about 15,000 CSOs in Kyrgyzstan in 2014, about 5% of which were nongovernmental organizations; they employed about 59,700 people in 2010.[23] The total contribution of CSOs to the economy of Kyrgyzstan in 2008 was estimated at 2.3% of total gross domestic product. The prevalence of CSOs is particularly noteworthy in Russia, where the voluntary sector consists of more than 100,000 organizations that employ more than 2 million people. Ukraine also has a large CSO sector, which has grown especially since the Orange Revolution of 2004. As of 2013, there were about 71,000 active CSOs in Ukraine.[24] Some scholars who have studied the development of CSOs have even speculated that the region's voluntary sector has now entered a phase of relative stability and growth.[25]

In response to the growing presence of various CSOs and the need to formalize the relationship between the state and civil society, all post-Soviet countries developed rigorous legal frameworks intended to steer the presence and behavior of CSOs in the country.[26] This interest in developing state rules for the regulation of CSOs coincided with the efforts of national governments to introduce stricter rules for their founding and activities. The first laws on public associations in the countries studied were adopted between 1990 and 1992 and were modeled broadly on the Soviet law on associations.[27] In 1994 and 1997, respectively, Kazakhstan and Kyrgyzstan adopted civil codes that each contained a section regulating the formation of CSOs; Russia, Armenia, and Ukraine adopted such legislation in 1993.[28] Where the previous laws on CSOs (defined as "noncommercial organizations") were not yet in line with the new civil codes, they were amended accordingly.

As a result, revised versions of the laws on associations were adopted in Russia (1993), Kazakhstan (1996), Tajikistan (1998), and Armenia (2003). Kyrgyzstan took a different path, replacing the previous law on associations with a law on nonprofit organizations. Around the end of the 1990s, Kyrgyzstan (1999), Ukraine (1999), and Kazakhstan (2001) adopted general laws on nonprofit

23 Kanykey Jailobaeva, "NGOs in Kyrgyzstan," working paper (Bishkek: AUCA Social Research Centre, 2010); Chiara Pierobon, "The Development of Civil Society in Post-Soviet Kyrgyzstan," *Annali di Ca'Foscari* 54 (2018): 107–33.

24 Lutsevych, "How to Finish a Revolution," 6.

25 Nowicki, "Kazakhstan's Nonprofit Sector at a cCossroad on the Great Silk Road," 224.

26 Horton and Kazhakhina, "The Legal Regulation of NGOs," 34–35.

27 John Anderson, "Creating a Framework for Civil Society in Kyrgyzstan," *Europe-Asia Studies* 52, no. 1 (2000): 77–93, 83.

28 Natalia Bourjaily and Melanie Lyon, *Comparative Study of Laws and Regulations Governing Charitable Organizations in the Newly Independent States* (Beijing: International Center for Not-for-Profit Law, 2004), 45.

organizations covering a variety of legal organizational forms, including public organizations, institutions, and foundations.[29]

Since the turn of the millennium, some post-Soviet countries have introduced stricter rules for the founding and operation of certain types of civil society organizations; however, they have not done so consistently across the region. According to Anderson,[30] the introduction of stricter laws on civil society in Kyrgyzstan coincided with the run-up to the parliamentary and presidential elections in 2000. In Russia, with Vladimir Putin´s re-election to the presidency in 2012, a series of restrictive laws were introduced to constrain civil society. In countries such as Kazakhstan, Kyrgyzstan, and Tajikistan, several laws restricting civil society followed the example of Russia, particularly in regard to financing CSOs, as we will see below in the discussion of the law on foreign agents introduced in Russia in 2012.

3 Research Design and Methodology

The principal goal of this study is to provide a systematic and comprehensive assessment of the variations in state regulation of organized civil society organizations in seven post-Soviet countries: *Armenia*, *Kazakhstan*, *Kyrgyzstan*, *Moldova*, *Russia*, *Tajikistan*, and *Ukraine*. Based on a systematic analysis of the relevant legislation governing civil society in these countries, this article develops a regulatory index of CSOs that makes it possible to map and compare the differences and similarities in the regulation of civil society in the different countries, focusing in particular on regulations that apply to public associations, noncommercial organizations, NGOs, foundations, and charities—that is, the entirety of organizational forms that essentially constitute the civil societies of these countries. The respective laws were obtained from government websites and examined at the end of 2019, either in their original form or in their official Russian translations.

For the purposes of this analysis, and drawing on the foundations of the methodology for measuring organized civil society in Western democracies,[31] the relevant laws were divided into three analytical areas of regulation that, from an organizational point of view, are of fundamental importance for the existence and operation of CSOs—namely, the regulation of (1) *state registration (formation)*, (2) *political and other civil society activities*, and (3) *their*

29 Ibid., 67.

30 Anderson, "Creating a Framework for Civil Society in Kyrgyzstan," 86.

31 Bloodgood et al., "National Styles of NGO Regulation."

access to economic resources. These measures "directly affect the emergence and capacity of NGOs in a given country and reflect governments' regulatory control of NGOs."[32] Each of these dimensions was then further differentiated into individual categories of legal measures that affect CSOs (see Table 2).

The first dimension refers to the ability of CSOs to get registered officially and enter the political process. It includes measures aimed at constraining, in one way or another, the ability of CSOs to enter the political arena and become active. Therefore, this dimension will be used to determine the extent to which post-Soviet states differ as to whether formal registration with the state is straightforward or whether there are obstacles to registration, such as prohibitive clauses that constrain freedom of association, rules on compulsory registration, or rules that impose mandatory fees for registration. In addition, this first dimension also covers whether registration can be denied, what happens in the event that it is, and whether foreigners are allowed to establish associations.

The second dimension refers to the ability of CSOs to engage in their constitutive functions. The measures included in this category determine the ability of CSOs to get involved in activities such as legal advocacy, to establish international contacts, or to support political candidates and engage in campaigning. This dimension also determines whether the state is free to interfere with the activities of CSOs, and it controls for measures that requires CSOs to submit regular reports on their activities to the state authorities and disclose all their financial assets. Consideration is also given to measures that give the authorities the right to interfere with the work of CSOs, for example through tax audits. Of the measures included in this dimension, the most severe one that can be used to impede the functioning of CSOs is the formal termination or dissolution of a CSO by the state.[33]

The third dimension comprises measures that limit organizations' access to economic resources. First and foremost, this concerns access to grants awarded by international funding organizations, such as USAID or Open Society Foundations; another question is whether civil society organizations can receive tax benefits from the state. This dimension also includes measures that constrain the organizations' right to engage in economic activities and whether there are government grants for CSOs. Table 2 provides a more detailed overview of the three dimensions, along with the measures included in each of them.

32 Ibid., 5.

33 Michael Bratton, "The Politics of Government—NGO Relations in Africa," *World Development* 17, no. 4 (1989): 569–87, 578.

Table 2 The three areas of regulation and regulatory measures

Area of regulation	Constraints
Formation	1. *Is the freedom of association guaranteed by law?*
	2. *Is registration of organizations compulsory?*
	3. *Is there a fee for the registration of organizations?*
	4. *Can registration of an organization be denied?*
	5. *Can registration be denied because of the "non-expediency" of the organization?*
	6. *If registration is denied, do organizations have the right to appeal?*
	7. *If registration is denied, do organizations have the right to reapply?*
	8. *Can foreign citizens be founders of organizations?*
Activities	9. *Are there legal barriers to speech and legal advocacy?*
	10. *Are there legal barriers to international contacts?*
	11. *Are there legal barriers to the right of assembly?*
	12. *Is the structure of organizations prescribed by law?*
	13. *Does the law provide for state supervision (e.g., through regular reporting on activities)?*
	14. *Are there sanctions in the event that an organization fails to submit such reports?*
	15. *Can the state interfere with the internal operations of an organization (e.g., through audits)?*
	16. *Can CSOs be politically active (e.g., through advocacy, by supporting political parties or candidates, or by campaigning)?*
	17. *Can the state terminate a CSO?*
Resources	18. *Are there legal barriers to receiving foreign grants?*
	19. *Are CSOs eligible for tax exemption?*
	20. *Can CSOs conduct economic activities (e.g., renting out property or other profit-generating activities)?*
	21. *Are there tax benefits for donors (individuals and organizations)?*
	22. *Does the law provide for state support (e.g., in the form of contracted social services)?*

Table 2 identifies 22 legal measures (constraints) that can directly affect the presence and operations of CSOs in a given country. To facilitate the intended cross-national assessment of the variations in the regulation of CSOs in the seven countries under study, this article assesses only the *presence or absence* of the specified legal measures, but not *whether and how countries use these mechanisms in practice*.[34] The presence or absence of the specified measures is determined on the basis of in-depth analyses of legislation and, where necessary, the relevant literature. In each category, dummy variables were used to code either the presence or absence of a specific legal measure. If a specific legal requirement was identified, the country was coded *(1)*; where that legal requirement was absent, the country was coded *(0)*. For some indicators, the negative value *(–1)* was used to confirm the presence of restrictive requirements in law, whereas the positive value *(0)* was used to identify a regulation that provides opportunities. After coding was completed, each dimension of an index was weighted equally; index values were produced by adding up the total scores for each indicator.

Table 3 gives the values for each dimension of the index for the seven post-Soviet countries in this study. The index ranges from –13 to 11 (total numbers of negative and positive values), with higher index values indicating fewer restrictions on CSOs. Table 4 summarizes the regulatory styles found in the seven post-Soviet countries. The mean value of 2 is used to differentiate these countries between those that have *permissive* regulatory regimes that govern CSOs and those that have *restrictive* ones.

4 Descriptive Illustration of Case Studies

Table 4 shows that the regulatory styles the post-Soviet countries have adopted are not as uniform as some scholars have suggested, but rather present a fairly diverse picture. Of the seven post-Soviet countries, Armenia, Kyrgyzstan, Moldova, and Ukraine belong to the group of countries with permissive regulatory frameworks for CSOs. As the index shows, these countries place few restrictions on the ability of CSOs to register with the registering bodies, impose few restrictions that affect the ability of CSOs to become active in the political process, and impose few constraints on the ability of CSOs to engage in economic

34 While the use of legal mechanisms may represent an important methodological approach to assess how states regulate their CSOs, at this stage of the research it appears to be more important to generate systematic insights into the differences and similarities between the countries studied regarding the availability of such tools before accounting for patterns of their use.

Table 3 Comparative assessment of state regulation of CSOs in the seven post-Soviet countries across three dimensions

	Constraints on formation							Constraints on activities			
Country	**1**	**2**	**3**	**4**	**5**	**6**	**7**	**8**	**9**	**10**	**11**
Variable range	*Y/N; 1/0*	*Y/N; –1/0*	*Y/N; –1/0*	*Y/N; –1/0*	*Y/N; –1/0*	*Y/N; 1/0*	*Y/N; 1/0*	*Y/N; 1/0*	*Y/N; –1/0*	*Y/N; –1/0*	*Y/N; –1/0*
Ukraine	1	0	0	–1	0	1	1	1	0	0	0
Kyrgyzstan	1	0	–1	–1	0	1	1	1	0	0	0
Armenia	1	0	–1	–1	0	1	1	1	0	0	0
Moldova	1	–1	–1	–1	0	1	1	1	0	0	0
Tajikistan	1	–1	–1	–1	–1	1	1	1	0	0	0
Kazakhstan	1	–1	–1	–1	0	1	1	0	0	0	0
Russia	1	0	–1	–1	0	1	1	1	0	–1	0

Table 4 Summary of regulatory styles in the seven post-Soviet countries

Country	**Regulatory index**	**Regulatory style**
Ukraine	6	Permissive
Kyrgyzstan	5	Permissive
Armenia	4	Permissive
Moldova	4	Permissive
Tajikistan	1	Restrictive
Kazakhstan	–1	Restrictive
Russia	–2	Restrictive

activities. At the other extreme are Kazakhstan, Russia, and Tajikistan, which belong to the group of countries with constraining frameworks for CSOs. The countries in these two groups will now be discussed in greater detail.

Within the first group of countries—those with permissive regulatory frameworks for CSOs—*Ukraine* stands out as the one with the most enabling regulatory framework for CSOs. Of all the countries studied, Ukraine has the simplest

Constraints on economic resources

12	13	14	15	16	17	18	19	20	21	22	*Index*
Y/N; −1/0	*Y/N; −1/0*	*Y/N; −1/0*	*Y/N; −1/0*	*Y/N; 1/0*	*Y/N; −1/0*	*Y/N; −1/0*	*None, charity, all 0 to 2*	*None Restricted Any 0 to 2*	*Y/N; 1/0*	*Y/N; 1/0*	***−13 to 11***
0	–1	–1	0	0	–1	0	2	2	1	1	**6**
0	0	0	0	0	–1	0	1	1	1	1	**5**
0	–1	–1	0	0	–1	0	1	2	1	1	**4**
0	–1	–1	0	0	–1	0	2	2	1	1	**4**
0	–1	–1	–1	0	–1	0	1	2	1	1	**1**
–1	–1	–1	0	0	–1	–1	1	1	1	1	**–1**
–1	–1	–1	–1	–1	–1	–1	1	1	1	1	**–2**

procedures for establishing CSOs and registration is not compulsory.[35] If an organization decides not to register, it only has to inform the registering body (Ministry of Justice) of its founding within 60 days after the founding meeting. In addition, Ukraine is the only country of those studied here where registration of public associations is free of charge.[36] If an organization has been denied registration, it can reapply once it has resolved the issues that originally led to the denial. Organizations also have the right to appeal official decisions. Moreover, according to Art. 7(1) of the Law on Public Associations, foreign citizens can be founders of CSOs as long as they meet the residence requirements. There are also no restrictions in the relevant law on international contacts (Art. 6). All CSOs must submit reports on their activities to the registering body; failing to submit such reports within the prescribed period renders them liable for sanctions, which range from a warning to fines to the suspension of certain or all activities and liquidation (Art. 28). All CSOs are entitled to tax exemption, including tax exemption for donations if they engage in economic activities.[37]

35 Law on Public Associations, Art. 16, https://online.zakon.kz/document/?doc_id=31159711.

36 Law on Public Associations, Art. 12(2).

37 Law on Public Associations, Art. 21(2.2); Law on Charitable Activities, Art. 16(4), http://uazakon.ru/zakon/zakon-o-blagotvoritelnih-organizatsiyah.html.

Kyrgyzstan is another country that does not over-regulate its CSOs. The main regulations concerning the founding and operation of civil society are the Constitution, the Civil Code, and the Law on Noncommercial Organizations. In line with the Law on Registration of Juridical Persons, all CSOs register according to the principle of "single-window registration," which means that registration is conducted at a designated institution, typically the service center for residents, and usually takes only 10 days to complete.[38] Like Ukraine, Kyrgyzstan has not made formal registration compulsory and state authorities are prohibited from interfering with the internal activities of CSOs.[39] The law in Kyrgyzstan does not specify what types of political activities CSOs may conduct; according to the Law on Noncommercial Organizations, CSOs may conduct any activities at all as long as these activities are legal.[40] According to the Civil Code, CSOs may engage in economic activities if these activities serve the purpose for which the organization was created.[41] CSOs in Kyrgyzstan also enjoy a number of economic benefits. According to the Law on Charities and Sponsorship, charities are exempt from customs duties and taxes.[42] There are no restrictions on CSOs when it comes to receiving foreign grants.[43] In contrast to the other countries in this sample, the law in Kyrgyzstan does not require CSOs to submit regular reports on their activities, except reports on their income structure and property.[44]

The legal framework for CSOs in *Armenia* is similar to that of Kyrgyzstan. CSOs are governed by Armenia's Law on Noncommercial Organizations. Registration is compulsory, but CSOs can also operate without formal registration.[45] However, if they do, they are not allowed to distribute information about the organization, organize rallies and meetings, or engage in lobbying. If an organization is denied registration, it may reapply or appeal registration-related decisions.[46] Like the state authorities in other countries in this group, those in Armenia are prohibited from intefering with the work and self-governance

38 Law on Registration of Juridical Persons, Art. 4, http://cbd.minjust.gov.kg/act/view/ru-ru/202621.

39 Law on Noncommercial Organizations, Art. 5, http://cbd.minjust.gov.kg/act/view/ru-ru/274.

40 Law on Noncommercial Organizations, Art. 12.

41 Civil Code, Part I, Ch. 5, Art. 161, http://cbd.minjust.gov.kg/act/view/ru-ru/4?cl=ru-ru.

42 Law on Charities and Sponsorship, Art. 11, http://cbd.minjust.gov.kg/act/view/ru-ru/282.

43 Law on Noncommercial Organizations, Art. 14.

44 Law on Noncommercial Organizations, Art. 17.

45 Law on Public Associations, Art. 3(4), https://www.arlis.am/documentview.aspx?docid=64978.

46 Law on Public Associations, Art. 12(9, 10).

of CSOs.[47] In addition, the state provides various assistance programs for charities and other CSOs through grants and contracting services.[48]

Moldova is another country whose legal requirements for CSOs to enter and become active in the political process, as well as to access economic resources, make it a country with a permissive regulatory style for CSOs, although its index value is one degree lower than that of Ukraine, Kyrgyzstan, and Armenia. The main laws governing CSOs in Moldova are the Law on Public Associations and the Law on Charities and Sponsorship. According to the Law on Public Associations, CSOs are free to choose their internal structure.[49] Foreigners can be founders or members of CSOs.[50] Registration is compulsory and a registration fee of 3 minimum monthly salaries must be paid upon registration.[51] After receiving the registration documents, the Ministry of Justice can accept, issue a temporary denial (for 3 months), or deny registration entirely—a decision that can be appealed.

All CSOs may participate in and organize public meetings and other public events.[52] An organization that has been terminated can appeal to the Superior Court of Justice to have the termination decision revoked. All CSOs must submit regular reports on their activities. Failure to do so can lead to their removal from the state registry, which is equivalent to a discontinuation of the organization (because they lose their status as a juridical person).[53] All CSOs in Moldova, including public associations, foundations, and charities, are exempt from taxation.[54] However, this exemption may be revoked if a CSO campaigns in support of or against any particular political parties or candidates.[55] All CSOs in Moldova, regardless of whether they are public associations or charities, may engage in economic activities, and their status as juridical persons makes it possible for public associations to establish commercial organizations.[56]

In our sample, Russia, Kazakhstan, and Tajikistan belong to the group of countries with constraining regulatory frameworks for CSOs. As the index shows, these countries have comprehensive legal barriers that make it more

47 Law on Public Associations, Art. 5(4).
48 Law on Public Associations, Art. 16(2).
49 Law on Public Associations, Art. 11, https://online.zakon.kz/document/?doc_id=30486925.
50 Law on Public Associations, Art. 14(6), 15(1).
51 Law on Public Associations, Art. 19(9).
52 Law on Public Associations, Art. 26(n).
53 Law on Public Associations, Art. Art.27(2).
54 Law on Public Associations, Art. 11.
55 Law on Public Associations, Art. 11(4).
56 Law on Public Associations, Art. 26(g); Law on Charities and Sponsorship, Art. 13(3), https://www.legislationline.org/ru/documents/id/21601.

difficult for CSOs to enter the political process, engage in political activities, and receive economic resources. The following discussion will provide a more detailed description of the regulatory frameworks in these three countries.

Within this group, *Russia* stands out as the country with the most constraining regulatory regime governing CSOs. Although all CSOs—including public and religious organizations, partnerships, associations of Kazaks and other national minorities, and institutions—can exist without registration,[57] they must register with the Ministry of Justice if they wish to get access to state grants.[58] An organization that has been denied registration can either appeal or reapply.[59] Foreign citizens can be founders and members of CSOs,[60] unless their residence in the Russian Federation has been declared "undesirable"[61] (Art. 15[1.2]). The law does not prescribe the structure of CSOs.[62] According to an amended version of the Law on Public Associations that entered into force in 2012, CSOs that wish to receive funding from abroad must first register with the registry of noncommercial organizations at the Ministry of Justice.[63]

In accordance with Art. 6 of this law, CSOs that receive funding from abroad are currently regarded as "foreign agents." Consequently, in order to register, an organization must submit the regular registration documents, along with an application to be included on the list of "foreign agents."[64] In addition, Russia makes it extremely difficult for international organizations to donate to CSOs in Russia. To make a donation, such organizations must be on a list of government-approved organizations, access to which is restricted. International contacts are restricted as well, since their activities can be construed as "treason."[65] All CSOs have the right to peaceful assembly and picketing.[66] Seemingly, this includes unregistered CSOs, but since the 2012 amendment concerning "foreign agents," activities of CSOs aimed at influencing decision-making and forming

57 Law on Public Associations, Art. 3, http://www.consultant.ru/documentcons_doc_LAW_6693.

58 Law on Noncommercial Organizations, Art. 13(1), http://www.consultant.ru/document/cons_doc_LAW_8824.

59 Law on Public Associations, Art. 23.1(6); Law on Registration of Juridical Persons, Ch. VIII.1, Art. 25.1.

60 Law on Public Associations, Art. 15.

61 Law on Public Associations, Art. 15(1.2).

62 Law on Public Associations, Art. 15.

63 Law on Public Associations, Art. 32.

64 Law on Public Associations, Art. 13.1(9).

65 Federal Law Nr. 129-FZ on Amendments to Certain Legislative Acts of the Russian Federation, http://publication.pravo.gov.ru/Document/View/0001201505230001.

66 Law on Public Associations, Art. 27.

public opinion have been restricted.[67] In 2012 a new regulation was introduced in Russia that allows state authorities to impose heavy fines on organizations for conducting assemblies. The fines are now 300 times as high as before for organizations (1 million rubles) and 150 times as high as before for individuals (600.000 up to 1 million rubles).[68]

Moreover, the law in Russia is prescriptive with regard to the structure, competences, and duration of managing bodies of CSOs.[69] As for economic resources, the state provides support to CSOs through contracting and other purchases. However, the law does not provide any benefits for donors,[70] except for "socially oriented public associations," which may be exempted from taxation.[71] The law in Russia also places heavy monitoring rules on CSOs. Unlike the laws of countries in the first group, Russian law provides for "off-plan revisions" of the activities of CSOs;[72] one reason for such revisions may be reports from state bodies of unlawful activities within the organization. In addition, only noncommercial organizations may engage in economic activities.[73]

In *Kazakhstan*, the main law governing CSOs is the Law on Noncommercial Organizations, which was adopted on January 16, 2001. The fee for registering an organization is 6.5 times the monthly calculation index rate.[74] In order to acquire republican status, an organization must be registered in eight regions and pay a registration fee of 110,292 tenge ($334). The law prescribes the structure of organizations and must be strictly observed.[75] Officially registered CSOs are not entirely exempt from taxation, but must pay certain taxes, including

67 Law on Public Associations, Art. 27.

68 Criminal Code, Art. 212.1, https://online.zakon.kz/m/document/?doc_id=30397073.

69 Law on Noncommercial Organizations, Art. 5, Art. 28(1), (2).

70 Law on Public Associations, Art. 31(3).

71 Law on Public Associations, Art. 31(1).

72 Law on Public Associations, Art. 31(1), Art. 32(4.2).

73 Law on Noncommercial Organizations, Ch. IV, Art. 24(2).

74 *Obzor sostoianiia nepravitel'stvennogo sektora v Kazahstane i perspektivy razvitiia*, 25. The monthly calculation index (MCI) is used in Kazakhstan to calculate pensions, allowances, and other social payments, and to increment fines and calculate taxes and other payments. On January 1, 2016, in accordance with Art. 11, para. 4, of the Law of the Republic of Kazakhstan "On the Republican Budget for 2016–2018" of November 30, 2015, № 426-V, the monthly calculation index was set at 2,121 tenge (or $6.42). Although this fee is relatively low, some women's grassroots organizations in Kazakhstan have reportedly decided not to register because it was still too much, instead remaining informal (Zellerer and Vyortkin, "Women's Grassroot Struggles for Empowerment in the Republic of Kazakhstan," 453).

75 Law on Noncommercial Organizations, Art. 38, https://online.zakon.kz/Document/?doc_id=1021519.

social insurance tax.[76] Foreigners can be members but not founders of CSOs.[77] There are no restrictions on international contacts.[78] However, in order to be able to receive funding from international organizations, CSOs must submit reports to the registering bodies indicating their structure and the amounts of funding they receive.[79]

At the time of writing, Kazakhstan has tightened its legislation on the freedom of assembly by introducing a clause into the Code of Administrative Offenses that imposes administrative liability for violations of the procedure for organizing and holding peaceful assemblies and demonstrations.[80] In addition, only noncommercial organizations may engage in economic activities, but if they do, they are not eligible for tax benefits.[81]

Tajikistan also belongs to the group of countries with constraining regulatory frameworks for CSOs. Registration is mandated by law and is far more cumbersome than in the other countries studied here, requiring a variety of documents and multiple visits to the offices of the Ministry of Justice. CSOs must submit registration documents to the Ministry of Justice within one month of the founding meeting.[82] If registration is denied, organizations can appeal the decision. Being denied registration does not prohibit the organization from reapplying.[83]

Tajikistan is the only country in our sample whose Ministry of Justice can revoke a registration.[84] Foreign citizens can be founders or members of CSOs if they have the legal right to stay in the country.[85] However, registration is expensive. The registration fee is about $40 for a local public association and almost twice that for national public associations. In contrast, the registration fee for international public associations (of Tajik origin and branches of

76 Law on Mandatory Social Insurance, Nr. 405-II, https://online.zakon.kz/document/?doc_id=1039354.

77 Law on Public Associations, Art. 10, Art. 11, https://online.zakon.kz/Document/?doc_id=1005615.

78 Law on Public Associations, Ch. 5, Art. 24.

79 Law on Noncommercial Organizations, Art. 41(2), (3), (5).

80 Code of Administrative Offenses, Art. 373, https://online.zakon.kz/document/?doc_id=31577399.

81 Law on Public Associations, Art. 20.

82 Law on Public Associations, Art. 16(2), Art. 21(2), http://www.adlia.tj/show_doc.fwx?Rgn=11267.

83 Law on Public Associations, Art. 23(4), (5).

84 Freedom House, "Freedom in the World 2019," 976.

85 Law on Public Associations, Art. 17.

international NGOs) is as high as $750.86 Tajikistan's Law on Public Associations prohibits state authorities from interfering with the internal affairs of public associations.[87] However, Art. 34 grants the Ministry of Justice the power to monitor the work of public associations in order to ensure that public associations do not violate the Law on Public Associations and that they operate in accordance with their legal mandate.

Interestingly, Tajikistan is the only country in our sample that requires the structure and work of voluntary organizations to conform to democratic norms.[88] CSOs have the right to organize assemblies, rallies, and demonstrations. There are also no legal barriers to the right of speech and advocacy.[89] However, this right can be restricted for public associations that have been established by foreign citizens.[90] All CSOs are subject to state supervision by the Attorney General and must submit regular reports on their activities. If they fail to do so, the courts can temporarily terminate the organization for three months[91] and issue a permanent ban if the organization does not resolve the issues that led to its temporary termination within this period.[92] Once banned, an organization must not be reestablished under a different name.[93] All CSOs may engage in economic activities[94] and may establish commercial organizations specifically for this purpose. However, charities are the only type of organization that can receive tax benefits.[95] The government awards public contracts to CSOs, in accordance with the Law on State Social Contracting.

5 Explaining the Variations

This section addresses the question of what factors can help to explain the different levels of repression against CSOs identified in the previous section. Unfortunately, far too little attention has been paid to this question in the past.

86 Irina Naidenova, Jafar Usmanov, Charles Buxton, and Medet Tiulegenov, "Policy Practice and Legal Environment for the Development of Enabling Civil Society in Central Asia," discussion paper (Bishkek: University of Central Asia, Graduate School of Development, Civil Society Initiative, 2019), 16.

87 Law on Public Associations, Art. 15.

88 Law on Public Associations, Art. 13(3).

89 Law on Public Associations, Art. 24.

90 Law on Public Associations, Art. 24(2).

91 Law on Public Associations, Art. 35(2).

92 Law on Public Associations, Art. 37.

93 Law on Public Associations, Art. 37(3).

94 Law on Public Associations, Art. 31.

95 Law on Charitable Activities, Art. 21, http://www.adlia.tj/show_doc.fwx?rgn=3285.

However, the few scholars who have studied the subject tend to believe that the ways in which governments structure their laws concerning CSOs are neither random nor accidental, but rather "purposeful, with an intention to create incentives for social and political actors to organize or not organize as NGOs."[96] With regard to authoritarian countries, in particular, it is believed that it is political rather than economic or social factors that influence the legal framework for CSOs.[97] In his influential study on the relationship between the state and NGOs in Africa, Bratton noted that "the amount of space allowed to NGOs in any given country is therefore determined first and foremost by political considerations, rather than by any calculation of the contribution of NGOs to economic and social development."[98]

Studies by Heurlin and others have found that among the political factors, the level of coercion autocratic rulers use in dealing with civil society is largely determined by the organization and configuration of the ruling elites.[99] The underlying idea is that authoritarian regimes vary in the structure and cohesion of their power. Although scholars have yet to develop a more coherent classification of authoritarian regimes,[100] the current literature usually distinguishes *competitive authoritarianism*, *one-party regimes*, *military regimes*, and *personalist dictatorships* as the key prototypes of authoritarian regimes.[101] It is believed that each of these regime types affords different degrees of political opportunity to CSOs. Moving from the most to the least repressive, they can be arranged as follows: *(1) personalist regimes*, *(2) military regimes*, *(3) one-party states*, and *(4) competitive authoritarianism*.[102] The following part of this section will first provide a brief overview of these four regime types and then discuss where the seven case studies fit into this classification.

Personalist regimes are political regimes in which the decision-making and coercive powers are vested in a single person.[103] Among authoritarian systems,

96 Bloodgood et al., "National Styles of NGO Regulation," 3.

97 Böhmelt, "Political Opportunity Structures in Dictatorships?," 449; Heurlin, "Governing Civil Society," 223.

98 Bratton, "The Politics of Government—NGO Relations in Africa," 574.

99 Heurlin, "Governing Civil Society," 223; see also Böhmelt, "Political Opportunity Structures in Dictatorships?," 449.

100 Charles J. Sullivan, "Civil Society in Chains: The Dynamics of Sociopolitical Relations in Turkmenistan," in *Civil Society and Politics in Central Asia*, ed. Charles E. Ziegler (Lexington, KY: University Press of Kentucky, 2015), 249–76, 257.

101 Böhmelt, "Political Opportunity Structures in Dictatorships?," 449; Diamond, "Thinking about Hybrid Regimes"; Heurlin, "Governing Civil Society," 223.

102 Böhmelt, "Political Opportunity Structures in Dictatorships?," 450–454; Møller and Skaaning, *Democracy and Democratization in Comparative Perspective*, 89–90.

103 Heurlin, "Governing Civil Society," 223.

personalist regimes are regarded as the most repressive form of government. As a rule, a personalist dictator tends to consolidate his power either by weakening the formal political institutions or by exercising total control over them.[104] Instead of institutions, the ruler relies on a close clique of his followers, usually members of his family or relatives. For elites outside the family or the ruling kin network, loyalty is based on a web of clientelist and patrimonial ties that is maintained by a system of political and economic patronage as a reward for loyalty. For this reason, it is assumed that elite cohesion in personalist regimes is lower than in other authoritarian systems.[105] Compared with other authoritarian systems, personalist regimes are also more susceptible to revolt from within their own ruling circle or by disaffected elites. Therefore, personalist dictators are genuinely interested in putting as much pressure as possible on elites and political groups outside their close ruling circle, including CSOs that they regard as a potential threat.[106]

Of the four types of regimes, *military regimes* use the second highest level of repression against CSOs. They are defined as authoritarian systems "in which military officers are major or predominant political actors by virtue of their actual or threatened use of force."[107] As in personalist regimes, the likelihood of conflicts and the defection of political elites is high, and the temptation on the part of disaffected elites to coalesce with CSOs in order to challenge the regime is considerable. For this reason, military officers tend to do everything in their power to consolidate their control over the executive and ensure that "real power lies within them."[108] Military dictatorships therefore make the establishment of CSOs very difficult because they perceive such organizations as a challenge to their political power.

One-party states are authoritarian regimes in which the elites are organized into a single strong political party that holds all the power in its hands. Other parties may be allowed to exist, but they do not have any real impact on power distribution and do not seem to play any significant role within the political system.[109] If the elites are organized in a strong political party, that

104 Böhmelt, "Political Opportunity Structures in Dictatorships?," 453.

105 Ibid., 454.

106 Heurlin, "Governing Civil Society," 223.

107 Axel Hadenius and Jan Teorell, "Pathways from Authoritarianism," *Journal of Democracy* 18, no. 1 (2007): 143–57, 146.

108 Böhmelt, "Political Opportunity Structures in Dictatorships?," 452.

109 Given that other political parties are allowed to exist and thus enter the political institutions, it is sometimes difficult to distinguish between one-party states and competitive authoritarian systems. However, it is generally believed that a country in which the ruling party holds a two-thirds majority is a one-party autocracy (Hadenius and Teorell, "Pathways from Authoritarianism," 148).

party's institutions help to manage elite conflicts over political and personnel issues.[110] For this reason, there is not much chance that disaffected elites in a single-party state will form a counter-alliance with CSOs in order to challenge the regime. In fact, it is believed that one-party states are more likely to use cooptation and other less belligerent strategies toward CSOs, owing to the cohesion of the power structures. As shown by Heurlin and others, such cooptation can take a variety of forms, including the establishment of a central supervisory body to regulate and monitor CSOs, the establishment of state-funded civil society organizations (so-called government-organized nongovernmental organizations, or GONGOs), the infiltration of CSOs by party bureaucrats, and the incorporation of powerful or influential CSOs into the party apparatus.[111]

Competitive authoritarianism is the least repressive of the four types of authoritarian regimes in the above typology.[112] It is defined as a form of political regime that does not yet meet the formal requirements of a democracy—such as the rule of law, free and fair elections, and respect for civil and political freedoms—but that nevertheless differs from pure autocracies in that it attempts to keep the formal democratic institutions intact or strengthen them. Although election results are sometimes manipulated, state resources are misused by political incumbents, and opposition parties are harassed, political elites in competitive authoritarian countries are generally unable to completely abolish the formal democratic rules or reduce them to a mere façade.[113] Instead of violating democratic principles (e.g., by banning or suppressing the opposition), office-holders tend to resort to bribery, cooptation, and subtler forms of persecution, for example by using the tax authorities. Moreover, rulers of competitive authoritarian countries tend to regard democratic institutions as arenas through which opposition forces can voice their grievances and challenge authoritarian power-holders, and even seek to leave them intact.[114] Competitive authoritarian states tend to be much more benevolent toward CSOs than other authoritarian states. As a rule, CSOs are valued for their engagement in social and welfare development. Political CSOs are also tolerated but may occasionally be subject to state control.[115] Instead of resorting to

110 Heurlin, "Governing Civil Society," 223.

111 Ibid., 226; see also Böhmelt, "Political Opportunity Structures in Dictatorships?," 449; and Diamond, "Thinking about Hybrid Regimes," 25–27.

112 Diamond, "Thinking about Hybrid Regimes"; see also Levitsky and Way, "Elections without Democracy."

113 Levitsky and Way, "Elections without Democracy," 54.

114 Diamond, "Thinking about Hybrid Regimes," 29–33; Levitsky and Way, "Elections without Democracy," 53.

115 Levitsky and Way, "Elections without Democracy," 55.

blanket repression, competitive authoritarian systems tend to channel dissent into political institutions such as the parliament.

Where do the seven countries selected for this study fit into this categorization and what implications does this have for state—CSOs relations in these countries? First, it is important to note that the results appear to corroborate earlier findings that autocracies are distinct in terms of repression against CSOs. As the index showed, the countries in the sample vary in the level of repression they use against CSOs. On the other hand, it is argued here that these different levels of repression depend on the particular type of authoritarian system in each of the countries.

Based on the literature on democratic transition in post-Soviet countries, Russia and Kazakhstan can be classified as one-party states, whereas Armenia, Kyrgyzstan, Moldova, and Ukraine fit the definition of competitive authoritarian states. Tajikistan presents a more challenging case study, as it has characteristics of both a one-party state and a personalist regime. However, for the purposes of the following analysis, Tajikistan will be considered a personalist dictatorship. No country in the sample fits the definition of a military regime. It should be noted that the classification of post-Soviet autocracies in this study is consistent with that of Freedom House, which, as already mentioned, has classified Russia, Kazakhstan and Tajikistan as "not free" and Armenia, Kyrgyzstan, Moldova, and Ukraine as "partly free" for several consecutive years.[116] The selected countries will be discussed in detail below.

Russia and *Kazakhstan* fit the definition of one-party state. As the index has shown, these two countries use a balanced combination of cooptation and intimidation strategies in dealing with CSOs. Both systems are ruled by autocratic presidents who run the country with the help of a dominant political party. The dominant party in Russia is the pro-presidential United Russia, which holds the necessary two-thirds majority in the state parliament (Duma). Although the Russian President, Vladimir Putin, is not a member of this party, he nominally presides over it. The dominant party in Kazakhstan is Nur Otan ("Radiant Fatherland"), which is led by former President Nursultan Nazarbayev, who ruled the country from 1990 to 2019. These two parties serve as tools for their respective Presidents to radiate power into society, maintain internal political stability, and prevent political dissent.

This is achieved by integrating broad social groups into the parties' rank and file. For example, 26% of members of United Russia are pensioners, students, or temporary workers, 21% work in education, 20% are blue-collar workers,

116 Freedom House, "Freedom in the World 2019."

13% work in public services, and 8% work in hospitals.[117] Internal bonds within the party are maintained through a complex patronage network.[118] The situation is very similar in the case of Nur Otan in Kazakhstan, which acts on behalf of the President as a formal institution to counter the instability that is likely to be caused by the opposition and potential challengers to the regime. This is achieved by consolidating the political parties associated with these networks into the party and by synchronizing the party and the state apparatus.[119] In both Russia and Kazakhstan, there are several other parties besides the ruling party. However, they do not seem to play any major role and only exist to give the appearance of a multi-party system and a semblance of a democracy. In principle, these parties support the official course, for which they receive privileges in return, primarily by successfully getting their draft laws adopted. If cooptation does not work, the presidents use violence, especially against members of opposition parties and civil society groups. Reports of violations of political and civil liberties in Russia and Kazakhstan have become notorious. However, reports of conflicts involving the participation of CSOs are very rare. This may be because the party's "base" is consolidated, so there is little room for disaffected elites to join forces with civil society organizations to challenge the regime.

Evidence and the first-hand experience of this author show that CSOs that deal with political and human rights issues are among the least tolerated by the state. The risks to social activism in Russia depend heavily on whether a civil society organization opposes the state or cooperates with it to provide social and welfare services.[120] In order to intimidate its political opponents, the Russian government makes use of the law on foreign agents that was introduced in 2012. In concrete terms, this means that the government harasses political CSOs by referring to them as "foreign agents."

117 Ora J. Reuter, "The Politics of Dominant Party Formation: United Russia and Russia's Governors," *Europe-Asia Studies* 62, no. 2 (2010): 293–327; Anna Zakatnova, "Klik—i v partii: 'Edinorossy' sebia soschitali" [One Click and One Is in the Party: The Members of United Russia Counted Themselves], *Rossiyskaya Gazeta*, May 19, 2010, https://rg.ru/2010/05/19/edro.html.

118 Sean P. Roberts, "United Russia and the Dominant-Party Framework: Understanding the Russian Party of Power in Comparative Perspective," *East European Politics* 28, no. 3 (2012): 225–40, 231. See also Thomas Remington, "Patronage and the Party of Power: President–Parliament Relations under Vladimir Putin," *Europe-Asia Studies* 60, no. 6 (2008): 959–87.

119 Rico Isaacs, "Nur Otan, Informal Networks and the Countering of Elite Instability in Kazakhstan: Bringing the 'Formal' Back in," *Europe-Asia Studies* 65, no. 6 (2013): 1055–79.

120 See, for example, Freek van der Vet and Laura Lyytikäinen, "Violence and Human Rights in Russia: How Human Rights Defenders Develop Their Tactics in the Face of Danger, 2005–2013," *The International Journal of Human Rights* 19, no. 7 (2015): 979–98, 982.

This is illustrated by Alexei Navalny's Anti-Corruption Foundation, which monitors and publicizes cases of corruption among the country's political elites. According to a BBC report from December 29, 2019, it has been subject to increased monitoring by the security services since it was declared a "foreign agent" in October 2019. Kazakhstan takes a similar approach. By way of illustration, it is worth recalling the imprisonment of young civic activists in 2019 who wrote the slogan "You can't run away from the truth" on a poster during a street marathon.[121] Another strategy for dealing with political CSOs that is worth mentioning in this context is the establishment of government-organized non-governmental organizations (GONGOs) with the aim of taking the wind out of the sails of real CSOs. In Kazakhstan, a good example of this is the establishment in 2016 of the Civil Initiative Support Center (CISC), which operates under the tutelage of the Ministry of Religious Affairs and Civil Society. CISC is solely responsible for the management and distribution of state subsidies to civil society organizations.[122]

Four countries in the sample—Armenia, Kyrgyzstan, Moldova, and Ukraine—fit the definition of competitive authoritarianism. As mentioned earlier, these countries put less pressure on and are generally well disposed toward CSOs. As can be seen from the index, their regulatory frameworks for CSOs are classified as permissive. All four countries have political regimes that threw off the yoke of strong authoritarianism through a series of "color revolutions" between 2004 and 2018. One might even argue that they are all undergoing a transitional phase on their way to becoming consolidated democracies.[123] In addition, reforms in all four countries indicate greater involvement of CSOs in political decision-making.

In *Ukraine*, for example, since the ousting of President Viktor Yanukovych from office in the wake of the Maidan Revolution in 2014, measures have been implemented that give CSOs more influence on political decision-making. Although the current government of Volodymyr Zelensky is increasingly criticized for ignoring CSOs,[124] it has been praised for its commitment to the rule

121 "Proteste in Kasachstan: Über 80 Festnahmen in Almaty und Nur-Sultan" [Protests in Kazakhstan: Over 80 Arrests in Almaty and Nur-Sultan], *Novastan.org*, May 4, 2019, https://novastan.org/de/kasachstan/proteste-in-kasachstan-ueber-80-festnahmen-in-almaty-und-nur-sultan.

122 Kaiser and Beimenbetov, "The Role of Repatriate Organisations in the Integration of Kazakhstan's Oralmandar."

123 Lutsevych, "How to Finish a Revolution."

124 Maryna Shevtsova, "Ukraine's Civil Society and Zelensky: A Romantic Affair or Guest Marriage?," Italian Institute for International Political Studies, April 17, 2020, https://www.ispionline.it/en/pubblicazione/ukraines-civil-society-and-zelensky-romantic-affair-or-guest-marriage-25792.

of law, political pluralism, and democratic freedoms.[125] According to many observers, neither the other political parties nor the CSOs are disturbed in their work by administrative interference or harassment. Moreover, open criticism of the government by the media, CSOs, or ordinary citizens is tolerated and not prosecuted.

Positive developments can also be observed in *Kyrgyzstan*. Despite internal political turmoil in 2005 and 2010, the country has shown a sustained and robust commitment to a free press, transparent elections, and respect for the freedom of association. As the index shows, the country's legislation is supportive of CSOs when it comes to their formation and their political and economic activities. According to observers, the Kyrgyz government acknowledges the humanitarian role of civil society in particular. This is partly because many CSOs played a very important role in ethnic reconciliation during the bloody clashes in the south of the country in 2010.[126] However, the mixed presidential–parliamentary system introduced in the wake of the Kyrgyz Revolution of 2010 also provides fertile ground for political CSOs. As has been widely noted, the system allows CSOs to criticize the government and participate in political decision-making.[127] However, the system of taxation for CSOs remains an unresolved issue. In accordance with the current interpretation of the law, CSOs are still treated as commercial enterprises and pay the same taxes as profit-oriented businesses, which affects the sustainability of many Kyrgyz CSOs.[128]

Armenia also shows many positive signs with respect to the development of CSOs. Since the upheavals in 2018, which led to the overthrow of then-President Serzh Sargsyan and the rise of Nikol Pashinyan to the prime ministership, the country has been undergoing a transformation in a democratic direction.[129] The new leadership is committed to economic reforms, the rule of law, and the eradication of corruption. As the index shows, Armenia's legal framework offers its civil society considerable freedom to become active. Moreover, according to various reports, the participation of civil society in political affairs is considered an important component of public administration processes in Armenia. In particular, state rulers acknowledge the participation of civil society in the

125 Freedom House, "Freedom in the World 2019," 1046.

126 Pierobon, "The Development of Civil Society in Post-Soviet Kyrgyzstan," 123.

127 Ibid.

128 Naidenova et al., "Policy Practice and Legal Environment for the Development of Enabling Civil Society in Central Asia," 10.

129 Alexander Iskandaryan, "The Velvet Revolution in Armenia: How to Lose Power in Two Weeks," *Demokratizatsiya: The Journal of Post-Soviet Democratization* 26, no. 4 (2018): 465–82, 474–476.

protests in 2018 and seek to endorse its participation in the country's further democratization process.[130]

Moldova also has a competitive political environment that is conducive to the further development of CSOs. The opposition parties and groups have a reasonable chance of increasing their support through elections. In the 2014 parliamentary election, the ballot featured 21 political parties, 5 of which won seats.[131] CSOs are generally able to participate in debates of a sensitive or political nature without fear of retaliation or surveillance. Freedom of assembly is guaranteed in the Moldovan Constitution and is largely respected in practice. For example, protests against the new election laws in 2017 did not result in any reported arrests, although some demonstrators were harassed by police.[132]

Tajikistan is the one country in the sample that fits the definition of personal dictatorship. Its political system shows many signs of a personalist regime, even if President Emomali Rahmon claims to base his power on his People's Democratic Party. In contrast to Kazakhstan and Russia, where political power is exercised by the dominant party, political power in Tajikistan is controlled almost exclusively by Rahmon's extended family, leaving citizens with few opportunities to make meaningful political decisions or participate in political processes.[133] Patronage networks and regional affiliations help to sustain this system. According to observers, the conflicts that repeatedly afflict the country, such as those in 2015, when several gunmen attacked the police checkpoints in Vahdat and Dushanbe, should be viewed as a result of the relative isolation of Rahmon's personalist regime from society.[134] The Tajik elites are constantly competing for political influence and economic gain.

Due to the regime's inability to absorb disaffected elites, these struggles erupt into violence. Such conflicts have even been useful to the regime, which has used them as a pretext for legitimizing a purge of potentially disloyal members and a crackdown on other opponents.[135] In the past, this was particularly true of the Islamic Renaissance Party (IRPT), which is regarded as the leading opposition party. Civil society and civil society organizations in Tajikistan face many challenges. As the index shows, the government has set relatively

130 Ibid., 469.

131 Freedom House, "Freedom in the World 2019," 645.

132 Ibid.

133 Edward Lemon and Hélène Thibault, "Counter-Extremism, Power and Authoritarian Governance in Tajikistan," *Central Asian Survey* 37, no. 1 (2018): 137–59.

134 Edward Lemon, "Violence in Tajikistan Emerges from within the State," *The Central Asia–Caucasus Analyst*, September 23, 2015, www.cacianalyst.org/publications/analytical-articles/item/13279-violence-in-tajikistan-emerges-from-within-the-state.html.

135 Ibid.

high barriers for the registration of CSOs. As discussed earlier, since the law was changed in 2015, the judicial authorities have more freedom to inspect the activities of CSOs and thus exercise more control over their activism in the country.

One final note should be made regarding Tajikistan's expected level of repression. The classification of authoritarian regimes used in this study suggested that Rahmon's personalist regime would use more repression and thus score far behind Russia and Kazakhstan in the index, but in reality, the values in the index show that Tajikistan scores better than these two countries. One possible explanation is that only the presence or absence of the measures was quantified and the reality might be quite different. However, this is a question that should be addressed in further research.

6 Conclusion

The main objective of this study was to develop a systematic and comprehensive assessment of relative differences in the regulation of organized civil society in seven post-Soviet countries defined as hybrid regimes. The main empirical contribution of this article was the development of a regulatory index for CSOs that makes it possible to assess the degree to which these countries restrict their CSOs, with a special focus on regulations on public associations, noncommercial organizations, NGOs, foundations, and charities—that is, the entirety of organizational forms that essentially constitute civil society in the seven countries. The regulatory index for CSOs developed in this article has been very useful as an analytical tool to obtain a more nuanced picture of variations in the regulation of civil societies by the state authorities of the selected countries. The index allows for a systematic assessment of whether these countries have restrictive or permissive regulatory frameworks for CSOs. The cross-national assessment has shown that the post-Soviet countries in this study differ more with respect to their regulatory frameworks for CSOs than one might expect. According to the analysis, Armenia, Kyrgyzstan, Moldova, and Ukraine have permissive regulatory frameworks for CSOs, whereas Kazakhstan, Russia, and Tajikistan have restrictive regulatory frameworks. This refutes the assumption that all hybrid regimes are equally hostile toward their civil societies. It also shows that under improved political and socioeconomic conditions, the permissive regulatory framework within which CSOs operate in Armenia, Kyrgyzstan, Moldova, and Ukraine may contribute significantly to the development of full-fledged democratic civil societies in the future. The

index is also useful for assessing the prospects of international assistance for democratic development in the region, as it has clearly shown which countries might hold the promise of "added value" for international developers.

In a next step, the study examined the broader factors that contribute to the variations in the regulation of CSOs, focusing on the configuration of the authoritarian power elites to explain the relative differences between post-Soviet states. It was shown that the higher the degree of democratization, the better the states treat the CSOs. This supports findings presented by Green,[136] who noted that a higher level of democratization is a strong predictor of more positive treatment of civil society.

However, these results come with a major caveat. The aim of this study was not to examine how the selected countries implement the laws, but to provide some systematic insights into the differences and similarities between these countries with respect to the availability of legal tools for the regulation of CSOs. It is hoped that this study has filled the gap in the literature by providing a systematic cross-national analysis of the differences in the regulatory frameworks for CSOs in the selected post-Soviet countries. An analysis focusing on how national governments in the post-Soviet region implement CSO-related laws might change the index value, as in the case of Tajikistan. However, testing this assumption would require a different kind of measurement and could be the objective of future research.

136 Andrew T. Green, "Comparative Development of Post-Communist Civil Societies," *Europe-Asia Studies* 54, no. 3 (2002): 455–71, 458.