Advocacy brief

The ultimate beneficial owner of non-Commercial organisations in Moldova – Towards a clear, proportionate and practically applicable Interpretation

Ilie Chirtoacă, Legal Resources Centre from Moldova

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European Center for Not-for-Profit Law

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Executive Summary

The application of beneficial ownership requirements to non-commercial organisations in the Republic of Moldova remains uneven and insufficiently clarified for practical purposes. The relevant legislation provides that, in the case of non-commercial organisations, the beneficial owner is the natural person or persons ***who ultimately exercise control over the organisation***[1]. The problem is that, for civil society organisations, this general formula, applied for commercial organisations is not accompanied by a sufficiently clear methodology for identifying the specific person or persons who must be declared.

This lack of clarity has real practical consequences. Some organisations declare the members of the general assembly, others declare board members, others the administrator, and in some cases the founder. At the same time, the same information is also requested by banks in the context of customer due diligence and AML/CFT compliance procedures. Therefore, the problem is not only a registration issue vis-à-vis the Public Services Agency (PSA), but also an operational one in relation to financial institutions. In practice, the data provided to the PSA and the data provided to the bank do not always match, and these discrepancies may generate additional requests, delays, or difficulties in the banking relationship.

This document has a dual purpose. First, it puts forward advocacy proposals for clarifying and harmonising practice. Second, it offers organisations a practical framework for distinguishing who should be declared and how the existing forms should be completed correctly, as at the sector level such questions often arise. Our stance, based on the analysis conducted is that in the case of civil society organisations, the beneficial owner should be identified on the basis of real ultimate control over governance, the appointment or dismissal of key persons, and the use of funds, rather than on the basis of formal membership in a statutory body.

The research confirms that while for some organisations, the described procedure is simple or manageable, others reported uncertainty as to who should be declared, procedural difficulties at the PSA, divergent requirements from banks, and disproportionate administrative costs, especially for organisations without access to specialised legal support.

[1] Parliament of Moldova, Law No. 308/2017 on the Prevention and Combating of Money Laundering and Terrorist Financing, Article 52.

Methodology

This policy brief combines desk research (an analysis of the relevant legal and administrative framework) with qualitative data collected directly from non-commercial organisations. The preliminary conclusions were validated at a focus group held on 14 November 2025 where Public Service Agency representatives also participated. To anchor the analysis in the practical experience of the sector, the brief also includes the results of a mini survey conducted among non-commercial organisations in the Republic of Moldova in early 2026.

These results from these sessions were used in two ways. First, they confirm that the issue of beneficial ownership in the case of non-commercial organisations is not merely theoretical or registration-related but has concrete operational consequences. Second, they support the need for further administrative and methodological clarification so that legal obligations can be applied in a clearer, more uniform and more proportionate manner for the associative sector

The survey process was anonymous, however, several organisations agreed to sign the responses, thus thes are provided in the annex.

Why this issue matters?

The beneficial owner is any natural person who ultimately owns or controls the client and/or the natural person on whose behalf or in whose interest, directly or indirectly, an activity or transaction is carried out.

"in the case of non-commercial organisations, the natural person or natural persons who ultimately exercise control over the non-commercial organisation".

Article 52(2)(3) of Law No. 308/2017.

For companies, the analysis of beneficial ownership often starts from ownership rights, shareholdings and voting control. For civil society organisations, that logic is far less helpful. Non-commercial organisations generally do not have owners in an economic sense and do not distribute profit. Control over them stems rather from the statute, the structure of governing bodies, reserved rights, and the possibility of influencing the organisation's essential decisions.

This is the main source of confusion. A person may be a member of a statutory body without exercising ultimate control over the organisation. Conversely, a person may have limited formal visibility, but may, through the statute or institutional architecture, hold decisive control over governance or the use of funds. In practice, this confusion is amplified by two factors. First, the existing reporting forms do not answer the key question, namely who should be declared. Second, the organisation must be able to defend the same logic both before the PSA and before the bank. That is precisely where differences in interpretation most often arise.

The confusion is confirmed by the responses of the organisations consulted for this brief. Some reported that the procedure was simple or manageable, while others described it as "confusing", "complicated", or dependent on specialised legal support. Several responses indicate that the main difficulty does not necessarily lie in the existence of the forms, but in the absence of a clear answer to the question of who should correctly be declared as the beneficial owner in a non-commercial organisation. One respondent summarised the issue well by saying that "*the declaration mechanism is clear, but the provisions of the law leave room for interpretation, especially for non-commercial organisations".*[2]

The confusion is not only local. At the European Union level, the beneficial ownership regime has been strengthened through the new AML/CFT package adopted in 2024, in particular through Directive (EU) 2024/1640 and Regulation (EU) 2024/1624. The new framework is based on the finding that the previous ***rules were applied unevenly across Member States***, which led to divergent interpretations and different methods of identifying the beneficial owner.

[2] Mini-online survey response, AO „Caroma Nord" .

What the law prescribes

The practical application of the UBO concept still depends too heavily on interpretation. This is precisely why clearer guidance is needed, especially for organisations whose control structure does not follow the ownership logic typical of commercial entities.

Thus, article 52 of Law No. 308/2017 on the Prevention and Combating of Money Laundering and Terrorist Financing[3] defines the notion of beneficial owner and expressly provides that, in the case of non-commercial organisations, the beneficial owner is the natural person or persons who ultimately exercise control over the organisation. The law further requires legal persons and non-commercial organisations to obtain, hold, and keep up to date adequate, accurate, and current information on their beneficial owner.

A second key element is Law No. 86/2020 on Non-Commercial Organisations[4], which distinguishes between the three main legal forms of non-commercial organisations: the public association, the foundation, and the private institution. This distinction matters because each form has a different supreme governing body and, accordingly, a different structure of control.

A third important element is the administrative practice of the Public Services Agency (PSA). The PSA publishes the forms applicable to non-commercial organisations and clarifies which forms should be used: BE-4 at the time of incorporation and BE-5 after incorporation, including for amendments, reorganisations, and dissolution. The PSA also states that the declaration does not need to be resubmitted where the beneficial ownership information has already been recorded in the State Register and no relevant changes have occurred.

Therefore, the issue is not the absence of rules, forms, or reporting duties. The real problem is that the current framework still does not provide a sufficiently clear and consistent method for identifying the beneficial owner of a non-commercial organisation in practice. While the law sets the general obligation and the PSA provides the reporting tools, the actual determination still depends too heavily on interpretation. There is no one-size-fits-all solution: different legal forms have different governance structures and different patterns of control. This creates uncertainty for organisations and leaves room for inconsistent practice, especially where control does not follow the ownership-based logic typical of commercial entities.

[3] Law No. 308/2017 on the prevention and combating of money laundering and terrorist financing, including art. 14 and art. 52

[4] Law No. 86/2020 on non-commercial organisations.

Features of each not-for-profit organisational form and UBO declaration

Public Association

The public association is built on the logic of membership. In case of public associations, the law prescribes the supreme body is the general assembly of members. This is the form in which the most frequent misunderstandings arise. In a very small public association, for example with 3 or 4 members, where the general assembly approves the budget, appoints and dismisses the administrator, and decides on statutory amendments, there is a strong argument that the members collectively exercise ultimate control over the organisation. In such cases, declaring them may be justified.

In a large public association with dozens of members, (eg. Association of Librarians from the Republic of Moldova with more than 1200 librarians as members) the same solution is no longer convincing. Declaring all members merely because they belong to the supreme body may become disproportionate and unnecessary. In such cases, the analysis should shift to the person or persons who effectively control governance or who hold decisive rights under the statute. The practical rule is as follows: in very small associations, collective control by members may justify declaring them; in larger associations, mere membership should not automatically be treated as equivalent to beneficial ownership.

Foundation

Based on Moldovan legislation[5], a foundation is an organisation without members (a collection of capital rather than membership). Its supreme body is the board. Here, the key question is not "who founded it?", but "who still controls it?". If the founder has expressly reserved the right to appoint or dismiss most board members (as allowed by the law on non-commercial organisations), then the founder is the obvious candidate for beneficial owner status. If, on the contrary, after incorporation the founder no longer has any real role and control lies with the board and the administrator, then the founder should not automatically be declared simply because they established the foundation.

There may also be mixed situations: the founder has certain reserved rights, while the director has significant autonomy in managing funds. In such cases, there may be more than one beneficial owner. However, where the founder's rights prevail and can override the director's decisions, the founder should have analytical priority. The practical rule is as follows: in foundations, the founder should be declared only if they retain real control or reserved rights; in their absence, the analysis shifts to the person or persons who effectively control the organisation (e.g. the Board).

Private Institution

The private institution is generally the simplest form to analyse. Its supreme body is the founder. Ordinarily, if the founder appoints and dismisses the administrator and has not transferred control to another person, the founder is the beneficial owner. Even here, however, no automatic approach should be applied. If the statute and actual functioning show that the founder has ceded effective

[5] Public Services Agency, forms and guidance for beneficial owners of legal persons and non-commercial organisations, including BE-4 and BE-5, and clarification that the declaration is submitted once unless changes intervene: https://www.asp.gov.md/ro/informatii-utile/formulare-tip/3-7-8.

control, while the administrator ultimately exercises control over governance and funds, then the administrator may become the relevant person. The practical rule is as follows: in a private institution, the founder is usually the first person to be analysed, but not automatically and not in every case the only person who should be declared.

FIU Guidance

The FIU's 2024 guidance[6] on identifying the beneficial owner is an important reference. It confirms that non-commercial organisations fall within this regime, explains that the notion of beneficial owner is not rigid, and emphasises the central importance of ultimate control. The guidance is also helpful because it requires reporting entities to verify beneficial ownership information using several sources, including information provided by the client, data from the public register, and other reliable and independent sources. This is a sound approach and is equally relevant for civil society organisations.

At the same time, the guidance does not fully resolve the practical difficulties faced by CSOs. It is strong at the level of general principles and methodology, but it does not provide sufficiently specific examples for the three main forms of non-commercial organisation recognised under Moldovan law. In particular, it does not offer clear scenarios for a small public association with three or four members; a large public association whose board has no executive role; a foundation in which the founder has retained significant reserved rights; a foundation in which the founder no longer exercises real control; or a private institution in which the founder has, or has not, transferred effective control.

For this reason, the FIU guidance is useful, but it is not sufficient on its own to address the specific features of civil society organisations.

Public Service Agency and the Banks: two parallel filters, sometimes, different approach

Public Service Agency (PSA) representatives appear to treat the declaration largely as a formal filing requirement: the emphasis is placed on having someone declared, rather than on whether the person declared actually reflects the organisation's real structure of ultimate control. This suggests that, in the absence of clearer guidance, the process risks becoming a box-ticking exercise rather than a meaningful assessment of beneficial ownership. [7]

In addition, the obligation does not end with the PSA. Banks also require information on the beneficial owner and verify it through know your client KYC/AML procedures. The National Bank of Moldova's regulation requires banks to identify and verify the client's beneficial owner and to understand the client's control structure. In practice, this means that civil society organisations face

[6] Service for the Prevention and Combating of Money Laundering, *Guide on identifying the beneficial owner*, approved by Order No. 21 of 8 July 2024, as amended by Order No. 9 of 29 May 2025: https://spcsb.md/wp-content/uploads/2025/10/GHID-privind-identificarea-beneficiarului-efectiv-modificat-prin-Ordinul-nr.-9-din-29.05.2025.pdf

[7] Public Service Agency representative, focus group, 14 November 2025.

two parallel filters: the registration filter, in relation to the PSA; the operational filter, in relation to the bank.

The PSA is concerned with entering the information in the register. The bank is concerned with whether the person declared corresponds to the actual control structure and may request explanations and additional documents. This is where the most frequent problems arise: the organisation declares a certain person to the PSA, while the bank requests a different justification or even reaches a different conclusion.

This finding is directly supported by the responses collected from organisations. One respondent reported that, while there were no uncertainties on the PSA side, the relationship with the bank was more complicated, including repeated requests for the organisation to provide forms and passport copies for US citizen board members[8]. Another respondent indicated that the organisation is served by two different banks and that each reached a different conclusion as to who the beneficial owner is[9]. These examples clearly show that the problem does not stop with completing the registry forms but continues in the compliance relationship with financial institutions.

Other responses also confirm practical interface difficulties between the PSA and the bank. One organisation reported that, after updating the data at the PSA, the bank did not accept the extract ordered online and explicitly requested the paper version issued by the PSA[10]. Such situations show that, in the absence of a harmonised approach, even where the organisation has submitted the necessary documents, additional administrative costs and delays may arise.

This risk is also confirmed by banks' public practice. In 2025, several banks have publicly issued messages regarding the obligation to declare or update beneficial ownership information[11] with the PSA and the need for the same data to be verified and updated in the relationship with the bank, in order to avoid difficulties or restrictions in accessing banking services.

How CSOs should properly complete the forms

In the case of non-commercial organisations, the main difficulty persists for structural reasons. On the one hand, the legal framework requires the identification of the natural person or persons who exercise ultimate control. On the other hand, non-commercial organisations do not follow a single governance model. Moldovan law deliberately allows them broad freedom to design their own internal governance arrangements. Public associations, foundations, and private institutions differ by legal form, but even within the same legal form, organisations may allocate powers differently between founders, members, boards, councils, and executive directors. This freedom is legitimate and important. It protects organisational autonomy and reflects the diversity of the associative sector. But it also means that the same legal concept must be applied to very different institutional realities. There is, therefore, no one-size-fits-all answer.

[8] Mini-online survey response, Keystone Moldova.
[9] Survey response, Foundation Regina Pacis.
[10] Survey response, Public Association AO „Fiecare Contribuie pentru Schimbare.
[11] Public communications by banks regarding the obligation to declare or update beneficial ownership information with the PSA and the need to update the same data in the banking relationship: FinComBank (23 December 2025; 19 December 2024), maib (20 November 2025), ProCredit Bank (1 December 2025).

For that reason, the confusion that persists in practice should not be attributed exclusively to public authorities. Part of the problem stems from the fact that the law sets a general standard, while organisations themselves are free to shape internal control structures in very different ways. At the same time, this does not diminish the responsibility of public authorities to provide clearer guidance. On the contrary, the broader the legitimate diversity of governance models, the greater the need for a clear and predictable interpretative framework. Without such guidance, the same legal rule may be applied inconsistently from one organisation to another, from one PSA operator to another, or from one bank to another.

This matters not only as a technical compliance issue, but also as a civic space issue. Where legal requirements are vague and their application depends heavily on administrative interpretation, they may become vulnerable to selective or abusive use. In a supportive environment, ambiguity creates delays, extra costs, and uncertainty. In a more restrictive environment, the same ambiguity can be used to exert pressure on civil society organisations, to delay registrations or amendments, to challenge compliance selectively, or to multiply administrative burdens in ways that discourage legitimate civic activity. Rules of this kind may therefore become especially problematic if public authorities are, at any point, inclined to shrink civic space. That is precisely why a simpler, clearer, and more predictable solution is needed in the long term.

The practical experiences reported by organisations confirm that the current framework is still difficult to navigate. Some respondents described the procedure as simple or manageable, particularly where the declaration was submitted together with other governance changes. Others, however, reported uncertainty over which persons should be included, repeated redrafting of applications, lack of clear templates for supporting documents, long waiting times, inconsistent approaches among PSA operators, and dependence on specialised legal assistance. These accounts suggest that the problem is not simply one of administrative attitude. Indeed, several organisations noted that PSA representatives were helpful and tried to assist. The deeper issue is that the methodology remains insufficiently clear, leaving too much room for discretion and too little room for predictable compliance.

The immediate need is not for additional forms, but for a simpler and more consistent interpretative framework explaining how the existing forms should be used in the specific context of non-commercial organisations. Such guidance should make clear that the declaration must be based on real ultimate control, not merely on formal title or membership in a statutory body. It should also reflect the differences between public associations, foundations, and private institutions, while still offering organisations a common analytical method that can be applied in practice.

In our view, the correct approach is not to create new forms, nor to reduce the exercise to a formal declaration of any person associated with the organisation. The better approach is to apply a **control-based test** grounded in the law and in the organisation's actual governance documents. In practical terms, before completing the declaration, an organisation should examine at least the following questions:

1) *What is the legal form of the organisation?*
2) *Who has the power to appoint or dismiss the administrator or governing body?*
3) *Are there any reserved rights, such as veto powers, prior approval rights, or the power to appoint or remove the majority of the governing body?*

4) *Who actually determines the use of funds and the strategic direction of the organisation? And, if an internal conflict were to arise, who would have the final word?*

This assessment should be based on the organisation's real legal and governance framework, not on assumptions. At a minimum, the statute, the incorporation decision or minutes, any amending acts, decisions appointing governing bodies, internal rules governing the board or council, and any clauses establishing reserved rights should be reviewed before the declaration is completed. A number of shortcuts should be avoided, because they risk turning the process into a box-ticking exercise rather than a meaningful transparency measure. In particular, organisations should avoid automatically declaring all members of the general assembly, all members of the board, the founder merely because of founder status, or the administrator merely because he or she signs documents, without first examining who actually exercises ultimate control.

In the longer term, the objective should be even clearer: a system that is simple enough to be understood and applied by organisations themselves, predictable enough to limit arbitrary interpretation, and proportionate enough not to become a hidden barrier to civic participation. That is the only way to ensure that beneficial ownership rules serve their legitimate transparency purpose without becoming, intentionally or unintentionally, a tool that can be used against the associative sector.

Advocacy proposals

The beneficial ownership regime applicable to civil society organisations must be clarified. The solution is neither to deny the concept of beneficial owner for CSOs nor to mechanically copy the rules designed for companies. The correct solution is to identify real ultimate control. Moldova already has the law, the forms and the general guidance. What is missing is a sufficiently clear methodology for the associative sector and a better harmonised practice between the PSA, the FIU and banks. Without this clarification, organisations will continue to complete the same documents but with different meanings, and the burden of compliance will remain transferred almost entirely onto them.

The responses collected from organisations reinforce exactly this conclusion. They do not show a refusal by the sector to comply, but a clear need for more intelligible and consistent rules. Some organisations navigated the procedure without problems, which proves that the obligation is workable. But others encountered uncertainty, repeated re-drafting of documents, variable interpretations and divergent banking requirements. For that reason, the reform needed is not the abolition of the obligation, but its serious clarification, so that the same rule can be understood and applied coherently by organisations, by the PSA and by the banking sector.

Based on the conducted research, we suggest for the CSO sector to push for following advocacy proposals

The PSA should issue a separate, short, and clear interpretative instruction specifically for non-commercial organisations

The PSA should publish a dedicated explanation on how beneficial ownership should be identified in the case of non-commercial organisations. The key message should be very simple: for NGOs, the

decisive issue is not whether someone formally sits on a statutory body, but who in reality has the final say over the organisation's governance and decision-making. In other words, the main criterion should be real ultimate control, not formal status on paper. A clarification of this kind would reduce confusion and help both organisations and officials apply the rules more consistently.

The FIU guidance should be expanded with practical examples covering all three legal forms of non-commercial organisation

The current guidance is too abstract and leaves too much room for different interpretations. It should therefore be supplemented with concrete and easy-to-follow examples. For instance, it should explain separately how beneficial ownership should be identified in a small public association, a large public association, a foundation where the founder has kept reserved rights, a foundation where the founder no longer exercises real control, and a private institution where control has either been retained or transferred. Practical examples would make the rules much easier to understand and apply than broad general formulas alone.

The PSA, the FIU and the banking sector should apply the same logic

One of the main practical problems is that an organisation may receive one explanation from the PSA, another from a bank, and sometimes a third from AML compliance practice. This means that for the same legal reality, organisations are forced to provide different explanations depending on who is asking. That is not a sound system. The interpretation should be harmonised so that public authorities and the banking sector work from the same understanding. Organisations should not be placed in a position where they must "translate" the same internal structure into two or three different versions just to satisfy inconsistent administrative expectations.

The existing forms are sufficient, but there must be clear guidance on how to complete them

There is no real need for new forms. The current forms can remain in place. Organisations need to know exactly what questions to ask before filling in the declaration and what logic should be followed when identifying the person to be listed. So the solution is not to redesign the paperwork, but to explain clearly how the existing forms should be used for non-commercial organisations.

Repeated resubmission should be required only when there has been a real change

The PSA should apply more firmly and consistently the rule it has already reflected in its public communication: if the information is already entered in the register and nothing has changed in substance, the declaration should not have to be submitted again. In practice, many organisations are asked to resubmit the same information even where the amendment they are making has no effect at all on the actual control structure of the organisation. This creates unnecessary costs, consumes time, and turns the process into a repetitive formality with little real value. Resubmission should be linked to genuine change, not to every minor administrative update.

Annex 1 organisations that participated in the consultation

1. Keystone Moldova
2. AO Centrul Național de Mediu
3. AO Moldius
4. National Platform of Youth for Active Participation
5. AO “Everyone Contributes to Change”
6. Caroma Nord
7. Stoicii
8. Association of the Deaf of the Republic of Moldova
9. AO “Ray of Trust”
10. Public Association “DIACONIA”
11. Pro Marshall Center of the Republic of Moldova
12. Public Association for the Protection of Stray Animals Datcha
13. AO “Partnerships for Every Child”
14. AO Contact Center-Cahul
15. Regina Pacis Foundation

One respondent did not indicate the name of the organisation.