



**DIRECTORATE-GENERAL FOR EXTERNAL POLICIES
POLICY DEPARTMENT**



**IMPROVING THE EU'S
SUPPORT FOR THE CIVIL
SOCIETY IN ITS
NEIGHBOURHOOD:
RETHINKING
PROCEDURES,
ENSURING THAT
PRACTICES EVOLVE**

AFET



DIRECTORATE-GENERAL FOR EXTERNAL POLICIES OF THE UNION

DIRECTORATE B

POLICY DEPARTMENT

STUDY

**IMPROVING THE EU'S SUPPORT FOR THE CIVIL SOCIETY
IN ITS NEIGHBOURHOOD: RETHINKING PROCEDURES,
ENSURING THAT PRACTICES EVOLVE**

Abstract

The study reviews the ways in which the EU provides support and cooperates with civil society in its neighbourhood. Although the EU has recently improved its record of working towards developing better environment for civil society in partner countries, still a lot has to be done. The EU needs to think long term and embark on the proactive strategy of turning civil society in neighbouring countries into a real reform partner rather than reacting to unwelcome developments. The EU should better include CSOs in the EU-partner countries dialogue, better monitor civil society's situation in partner countries, pay increased attention to the regulatory framework and effectively apply targeted conditionality. Under existing EU assistance schemes, only a few CSOs can actually have access to EU funding. A number of provisions in the current regulations already give the opportunity to mitigate some of the identified obstacles, but this also crucially hinges on the evolution of practices in the field. In addition, the proposed regulations on common rules for the implementation of EU external action and on the European Neighbourhood Instrument do not seem to significantly strengthen CSOs' access to EU funds. The study proposes recommendations in this respect.

This study was requested by the European Parliament's Committee on Foreign Affairs.

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EXECUTIVE SUMMARY

1.1 Scope of the Study

The study reviews the ways in which the EU provides support and cooperates with civil society in its neighbourhood, in light of:

- EU official statements, policy mechanisms and assistance to support civil society in the neighbourhood;¹
- recent proposals reviewing the ENP and the ENPI, including the new approach on the European Neighbourhood Policy, and the European Commission's proposals for new assistance regulations;²
- CSO's reports, policy briefs and documents;
- and political, economic, social developments in the Eastern and Southern neighbourhoods.

The study is divided into three sections. The first section briefly reviews the EU's stated ambitions to increase its cooperation with civil society. The second section provides a diagnosis of EU-civil society relations. The third section pays specific attention to EU's assistance procedures for CSOs.

1.2 Conclusions

Although the EU has recently improved its record of working towards developing better environment for civil society in partner countries, still a lot has to be done. The EU needs to think long term and embark on the proactive strategy of turning civil society in neighbouring countries into a real reform partner rather than reacting to unwelcome and worrying developments. This entails to better include CSOs in the EU-partner countries dialogue and policy process, to better monitor civil society's situation in partner countries, to pay increased attention to the regulatory framework and effectively applying targeted conditionality.

Current processes in EU assistance seem to build on the assumption that a wide-enough spectrum of CSOs actually have the capacity to engage in the competition process on fair grounds. The latter conflicts with views expressed by actors of the civil society: a feeling of frustration created by the fact that only a few CSOs can actually have access to EU funding.³ Under the existing schemes, various side effects actually reduce the capacity of the EU assistance to meet their stated objectives with regard to civil societies: exclusion of grass-root organisations, limitation of partners to a small pool enjoying continued funding. While being effective tools to ensure fair competition for funds, calls for proposals are widely seen as a major obstacle by many civil society actors across partner countries and *de facto* exclude wide segments of the host civil society. The newly stated EU intention to foster a "partnership with societies" in its neighbourhood translates into a stronger emphasis on support to local society actors. Complementing existing instruments, new mechanisms are being set up in the frame of the revised ENP, e.g. the CSF and EED. To maximise the impact of

¹ A few interviews were conducted with EU delegations' staff and CSOs' experts in some partner countries.

² Proposal for a Regulation of the European Parliament and of the Council establishing a European Neighbourhood Instrument, COM(2011) 839 final; Proposal for a Regulation of the European Parliament and of the Council establishing common rules and procedures for the implementation of the Union's instruments for external action, COM (2011) 842 final.

³ This conclusion can be extended to the involvement of CSOs in the programming and monitoring of EU assistance which is also analysed in the study.

each instrument, clear differentiation must be made, not least to ensure a clear picture reflecting the EU's logic, and for CSOs to find their way through the multitude of EU mechanisms.

While a number of provisions in the current regulations already give the opportunity to mitigate some of the identified obstacles, the proposed regulations do not seem to significantly strengthen CSO's access to EU funds. Such an improved access also crucially hinges on the evolution of practices in the field.

1.3 Recommendations

EU relations with civil society

The EU should foster the inclusion of CSOs in the dialogues and policy processes the EU conducts with partner countries. This can be achieved by arranging tripartite meetings, inviting CSOs (based upon a transparent selection process) to monitor EU-partner countries negotiations and support the EaP Civil Society Forum's systematic participation in the EaP's multilateral track activities. In addition, the EU should increasingly fund the monitoring of ENP Action Plans by CSOs across the neighbourhood.

The EU needs to **practice open criticism of developments in EaP countries**, which are important to civil society there. Public support from the EU would strengthen relevant CSOs efforts to monitor political developments. This entails systematically and firmly condemning any deterioration in the reform process in the neighbourhood and calling for CSOs inclusion in the policy dialogue.

In addition, the EU needs **to be more sensitive to specific conditions in each country**. In other words, the EU should systematically compare the evolution of the situation over time in a specific country. This, however, should not preclude the EU from performing also a geographical comparison to stimulate emulation among partner countries.

The EU should pay more attention to the regulatory environment for civil society in ENP/EaP countries. This issue has received too little attention, whereas regulatory environment for CSOs - practically all EaP countries - has deteriorated in the past years. The EU should enhance its support to those projects which will help to build a better operating environment for CSOs.

The EU needs **to introduce targeted conditionality and couple it with media resonance**. For instance, the EU could link the delivery of budget support to the effective involvement of CSOs in the policy process.

The **EU needs to better join efforts with other international organisations**, particularly the Council of Europe. The latter has strong expertise where democracy and human rights issues are concerned but it does not enjoy the same leverage and degree of influence as the EU. It is therefore suggested to make an increased use of joint statements, while joint assistance projects should take place only when there is a clear added value to avoid additional administrative costs. This entails taking effectively into account the respective expertise, the comparative advantages and the experience gained by the EU and the Council of Europe in the neighbourhood. In light of the revised ENP approach which makes cooperation with the Council of Europe even more important, the EU should commission a study with a view to mapping and assessing joint projects across the neighbourhood.

EU support to civil society

We suggest the following recommendations to improve the overall EU procedures to CSOs and the proposed Regulations.

Turning civil society into a partner under EU assistance

- The proposed ENI Regulation is neither sufficiently detailed nor binding when it comes to developing **an effective partnership with civil society in assistance priority-setting and monitoring**. It should:
 - make the delivery of budget support conditional upon the effective involvement of CSOs in the policy process;
 - include the possibility of re-allocating funds towards CSOs in the event of a sharp deterioration of the political situation in a partner country;
 - design a specific mechanism (e.g. systematic tripartite dialogue at various stages of the assistance cycle) guaranteeing non-state actors' effective involvement in the ENI programming and monitoring processes;
 - specify the procedures for non-state actors' consultation at each stage of the assistance cycle, inter alia programming, monitoring and evaluation.
- While it should contribute to raise the EU's profile among civil societies in the neighbourhood, the Civil Society Facility is absent from the ENI Regulation. The European Parliament should ensure **its formal inclusion**.
- In order to address the **GoNGO issue**, the EU should set up an ad hoc working group and/or commission a report **exploring the lines along which CSOs may be classified**. It could then set up a certification scheme based upon these lines.

Promoting CSOs access to EU funding

- **The EU should diversify funding mechanisms available to CSOs** to reach different groups. In particular, it should design and develop **specific funding schemes for individuals and/or non-registered groups**. This would be both a flexible tool and a leverage vis-à-vis neighbouring countries in which CSOs face difficulties to register and/or to get funded from abroad.
- Smaller scale CSOs often experience difficulties with the co-funding requirement. The EU should **extend the waiving of co-financing requirements** which under the proposed regulations is only envisaged in specific cases.
- The EU should consider developing possibilities for enlarged scope of sub-granting⁴ and increased **sub-granting mechanisms**, thus allowing for a broader support and multiplying small grants.

⁴ Sub-granting is the process whereby, where the action so requires, a [grant](#) may be re-allocated to third parties (usually smaller CSOs). Sub-granting concerns pre-defined activities to be carried out by entities not identified at the time of submitting the application but which will be selected by the [beneficiary](#) of the grant based on previously agreed criteria. This allows to support smaller organisations. https://webgate.ec.europa.eu/fpfis/mwikis/aidco/images/b/bd/FT2_revue_%3D_Subventions_en_cascade.pdf

2. EU STATED AMBITIONS TO INCREASE ITS SUPPORT TO AND COOPERATION WITH CIVIL SOCIETY IN THE NEIGHBOURHOOD COUNTRIES

The importance of civil society for changes “*from within*” in neighbouring countries, progress towards democratisation and compliance with human rights has been increasingly acknowledged by the European Union (EU) both at the level of policy design and implementation. Civil society is seen as an indispensable societal actor that can give impetus to desired reforms or act as their alternative motor. It also provides an alternative channel for communication, working both ways: providing further information to the EU stakeholders about the situation on the ground, and communicating European norms to societies. Furthermore, local civil society plays an indispensable role of watchdog, whistle-blowers, and source of alternative monitoring and assessment. The EU has employed the extensive pool of alternative expertise provided by the civil society in almost all policy areas covered by mutual legal obligations with the neighbours.

Simultaneously, the EU has been widely criticised for slow delivery of its civil society assistance within its external action instruments before and after their 2007 reform. This criticism translates into both a revised European Neighbourhood Policy (ENP) approach (2011 ENP Strategic Review) and the current efforts to streamline the rules governing financial tools as reflected in the proposed regulations for assistance under the next multiannual financial framework.

The ENP Review has taken place in a context characterised by contradictory developments. On the one hand, some Eastern neighbours have moved further away from EU standards. In many respects, earlier expectations of a smooth transition towards market economy and democratic governance have not materialised in the post-Soviet area, despite increasing exposure to international organisations’ standards and practices. On the other hand, the “*Arab Spring*” reflects the increased salience of European values in the neighbourhood and their dissemination, *inter alia* through social media. At the same time, the ‘Arab spring’ highlighted weaknesses in the EU’s policy in the region. As pointed out by the Commissioner for Enlargement and the European Neighbourhood Policy Štefan Füle: “*Europe was not vocal enough in defending human rights and local democratic forces in the region. Too many of us fell prey to the assumption that authoritarian regimes were a guarantee of stability in the region.*”⁵

Whereas previously EU-partner countries relations focused on structural reforms, the revised ENP moves democracy, human rights, transparency and anti-corruption to the top of the agenda. CSOs have a crucial role to play in this process, even more so given the increased use of social media which in turn strengthens the requirement for transparency in the policy process, both at domestic and EU-partner countries levels.

Commissioner Štefan Füle and High Representative Catherine Ashton presented the results of the review of the European Neighbourhood Policy in May 2011, suggesting new policy concepts and several new instruments. “*Deep democracy*” reflects a comprehensive approach based on experience gained especially in the MENA region over the last decades with the stability objective. The lesson learnt from this experience was that stability cannot be decoupled from democracy. The principle of conditionality is linked to the new concept of “*mutual accountability*”. Under the new policy approach, the principle “*more for more*” refers to tailored cooperation with benefits linked to performance. The

⁵ <http://europa.eu/rapid/pressReleasesAction.do?reference=SPEECH/11/130>

"partnership with societies", not governments, should both underpin the ENP and support local civil society that is considered as an important partner in efforts to achieve the stated policy goals.

The substance of the new policy concepts is now emerging in the Commission's draft regulations for the external action instruments. The initial proposals (ENI regulation, Horizontal framework implementation regulation) of the European Commission have the potential to bring further flexibility and desired simplifications while the new policy approach introduces *"mutual accountability"* and is expected to strengthen conditionality. The new system should be operational as of January 2014. A close parliamentary scrutiny of the proposals should focus on comprehensive involvement of the civil society while keeping the regulatory framework simple.

New tools for support of the civil society - the ENPI Civil Society Facility and the European Endowment for Democracy - are being added. The idea of a new facility from which the civil society would be funded emerged within the Eastern Partnership Civil Society Forum and was taken on board by the EEAS and the European Commission when preparing the ENP review. The facility will run in 2011-2013, with unclear future for 2014-2020. The way it is designed does not provide for much flexibility. More specifically, it does not make it possible to avoid funding GoNGOs. In addition, it does not allow for structural support targeting selected local CSOs that could carry on work in a deteriorating domestic situation. The European Endowment for Democracy (EED) is getting a clearer shape with the EED concept drafted by the EEAS and the Commission, approved by the Council at the beginning of December and sent to the European Parliament. The preparations of the political declaration⁶ are under way and it seems likely the EED will see the light rather soon, although with limited funding provided by the interested EU Member States and a core contribution provided from the EU budget. Its main advantage would be flexibility and ability to react swiftly. It should work primarily as a grant-making institution, providing direct support to beneficiaries or re-granting via other CSOs.

Further efforts to engage actively with local civil society in the neighbouring countries, especially in the East, take place under the Eastern Partnership; the *Eastern Partnership Civil Society Forum*, instigated and initially funded by the European Commission, has proved to be a viable concept. It inspired the establishment of the *EU-Russia Civil Society Forum* in Spring 2011, in Prague.

3. DIAGNOSIS OF THE CURRENT EU-RELATIONS WITH CIVIL SOCIETY ACTORS AND PROPOSALS FOR IMPROVEMENT

This section reviews the ways in which the EU has supported civil society in its neighbourhood and suggests possible improvements for the Union to step up its action in this respect.

⁶ "To ensure its rapid set up, the EED will take the form of an International Trust Fund, to be established by participating Member States under the law of a Member State. Its creation will be based on a Declaration, establishing a political framework for the EED. This Declaration will be signed by an initiative group of Member States. Once established, participation in the EED may be opened to for signature by other Member States, EFTA countries and candidate countries, as appropriate and in accordance with its original mission." (EEAS, EED Terms of Reference).

3.1 Current EU initiatives to promote a good general operating environment for civil society actors

3.1.1 Public statements in defence of relevant rights

The EU uses the instrument of declarations and public statements⁷ quite actively and generally in a way which reflects the situation in the target countries. For instance, among the six Eastern Partnership countries, Belarus is the country which is subject to the most frequent statements. . During 2010-2011, over 20 declarations by the EU's High Representative on behalf of the EU, statements by Catherine Ashton herself or local statements by the EU Delegation or Embassy of the country holding the EU Presidency at the time were made, most of them following the December 2010 Presidential elections. Most statements concerned restrictive measures against Belarus and its officials following the elections, trials and the sentencing on political grounds of civil society representatives and opposition leaders, including former presidential candidates following the elections, condemnation of the conduct of elections and post-election violence. The EU has repeatedly condemned the crackdown on the political opposition, civil society and the independent media and demanded release of those imprisoned on political grounds. A number of local statements addressed more specific issues, such as conditions of imprisonment of political prisoners, laws that limit freedoms and rights and raids against civil society organisations.

This sharply contrasts with the use of statements concerning other EaP countries. Four statements were addressed to Azerbaijan, e.g. in November 2010 on Parliamentary elections where HRVP Catherine Ashton noted that the way elections were conducted was not sufficiently democratic and encouraged the Azerbaijani authorities to improve the situation with respect to human rights, media freedom, and freedom of assembly. Two more statements were issued by the EU Delegation - on the demolition of the office of the Institute for Peace and Democracy in August 2011 and on the increasing number of arrests of youth activists in March 2011. During 2010-11, there were five statements on Ukraine - two of them on the case of the opposition leader Yulia Tymoshenko, another in October 2010 ahead of the local elections where the EU also expressed its concerns about non-democratic developments, including problems with the freedom of media, freedom of assembly and freedom of association, while two other statements concerned Presidential elections in Ukraine in January and February 2010.

Most declarations and statements were rather cautiously worded. Local statements (i.e. by EU Delegations on the ground) are rarely used (or never by some Delegations); yet such statements seem to be a good instrument for reacting to specific developments, either positive or negative. They show that the EU closely watches developments in partner countries, not only during elections or when something extraordinary happens, but also on a daily basis.

Public statements are not the only instruments at the EU's disposal to raise some issues publicly. Interviews and comments to the media also allow to deliver key messages, as illustrated by the case of Ukraine. The Delegation in Ukraine has not issued a single local statement as noted above; yet comments in the media by the Head of the EU Delegation strongly resonate on the ground. These comments mostly concerned the adoption of legislation contrary to EU standards, for instance on public procurement and civil service. In a similar vein, Commissioner Füle during several of his visits to Ukraine expressed concerns on some developments, such as, for instance, the 'constitutional reform' in September 2010 and selective justice/political prosecutions in January 2011. Usually this kind of public

⁷ All EEAS Statements can be found at http://eeas.europa.eu/statements/index_en.htm.

positions receive due attention in the media, thus making society aware of the EU position (this however depends upon the degree to which media are independent in a given country).

The EU statements tend to be contextual: the EU tries to place each Eastern neighbour country into a broader regional context. This explains why Belarus receives very harsh criticism and more attention as compared to other countries, which seems to be performing relatively better. Yet, the EU seems to be missing the opportunity to influence important developments in those countries, such as those concerning access to justice, torture in detention (a widespread problem in most EaP countries), legislation on civil society and many other issues. For instance, in 2010-11 the situation concerning the freedom of the media, the freedom of assembly and the independence of the judiciary significantly deteriorated in Ukraine; yet, the EU failed to pay sufficient attention to this. The EU should be more sensitive to each country's situation.

The number of declarations and statements concerning Southern neighbours significantly exceeds those concerning the EaP countries. This is no surprise given the developments related to the "*Arab Springs*".

Various multilateral and bilateral meetings are also used to express criticism. Thus, the EU leaders called on Ukraine and Belarus to improve their human rights record during the Eastern Partnership summit held in September 2011 in Warsaw. The EU also used the occasion of the annual bilateral EU-Ukraine Summit to express its concerns regarding the situation of democracy both in 2010 and 2011.

3.1.2 Regular public reporting

The ENP Progress Reports are the only instrument at the EU's disposal for publicly and regularly reporting on developments in EaP countries. The ENP progress reports published in 2010 and 2011 were more comprehensive and critical than the previous reports. However, these reports do not have a strong resonance in the field and they do not result in partner countries adopting measures to remedy the shortcomings noted. This stands in sharp contrast to the impact the reports had on the accession countries in Central and Eastern Europe.

The latter can be explained by two factors. First, the wording of the reports is quite vague. The EU is not outspoken in pointing to reform deficiencies and, more importantly, it does not point to the major underlying problem, namely the lack of political will. Second, the '*carrot*' of accession is missing and this reduces the incentive to react. The publication of reports is often perceived as the outcome of a technical or bureaucratic exercise, not as a political act by the EU. Furthermore, the progress reports have no implications for the EU's policy towards the respective EaP countries, whatever is written in them. Funding will not be reduced or suspended if reforms are not taking place; more engagement will not take place as a result of positive developments. This casts doubts on the EU's commitment to conducting a coherent policy.

Again, the problem of '*contextualisation*', which was pointed at with respect to public statements, is present in the progress reports. The EU attempts to balance its language. As a result, countries that have less acute problems than, for instance, Belarus and Azerbaijan receive less criticism, although from the perspective of local civil society and other reform-minded groups, those problems are serious enough.

Another problem relates to timing. Progress reports are usually published in Spring and focus on developments which took place during the previous year. In a fast-changing environment, their content is often outdated by the time they are issued.

3.1.3 Raising of relevant issues in political dialogues

Assessing how political dialogues are used is difficult, as most of what is being discussed remains behind closed doors. In some cases unofficial information on the contents of discussions is leaked to the media, but this does not happen very often and usually depends on the media environment in the relevant partner country. The most common opportunities for political dialogue emerge from meetings within bilateral institutions such as the EU-partner countries Summits and annual meetings of bilateral Cooperation Councils and Cooperation Committees, as well as thematic sub-committees with all the countries apart from Belarus. Meetings of bilateral Parliamentary Cooperation Committees offer another opportunity. Finally, multilateral institutions established within the Eastern Partnership have opened additional opportunities for political dialogue. Usually documents resulting from these meetings are using a rather mild language, since the texts have to be agreed by all parties involved. It is only during press conferences following meetings that the EU can publicly send out some of its own messages. Yet, since the EU tends to be reluctant to issue public criticism, political dialogue provides an opportunity to pass messages without making them public.

The EU also practices annual human rights meetings/consultations with EaP countries and importantly always invites the civil society to contribute to these meetings. Georgia had already its fourth round of human rights dialogue with the EU in June 2011, which was preceded by a meeting with civil society⁸. In December 2011, the third round of EU-Armenia human rights dialogue took place in Yerevan⁹. In April 2011, the second round of EU-Moldova human rights dialogue took place in Chisinau¹⁰. In all these cases the EU has met representatives of local and international CSOs prior to official meetings to have an alternative perspective from the ground. The EU also launched human rights dialogue with Belarus in June 2009 and met with representatives of Belarusian and international CSOs prior to the consultations¹¹. Yet these meetings stopped taking place due to post election developments in Belarus in December 2010.

Neither Ukraine, nor Azerbaijan has institutionalised human rights dialogue with the EU. Relevant discussions take place in the framework of the EU-Ukraine Cooperation Committee and the EU-Azerbaijan Subcommittee on Justice, Liberty, Security and Human Rights and Democracy. Thus, in May 2011 the EU and Ukraine had a two-day long meeting of the Cooperation Committee, where the entire day was devoted to human rights issues. This was the first time the EU practiced this kind of discussion with Ukraine. Quite a while before the meeting the EU asked Ukrainian civil society to express the issues of their concern, so that the EU could put them on the agenda. A few days before the very meeting the EU Delegation also met human rights experts and activists to discuss the state of human rights in Ukraine.

The latest EU-Azerbaijan Subcommittee on Justice, Liberty, Security and Human Rights and Democracy took place in Brussels in November 2011. For the second time the EU-Azerbaijan Political Dialogue on Human Right and Democratisation took place in the framework of this Subcommittee. On the positive side, the EU invited the Norwegian Helsinki Committee, a prominent CSO dealing with human rights

⁸ http://eeas.europa.eu/delegations/georgia/documents/news/20110620_01_en.pdf

⁹ http://eeas.europa.eu/human_rights/dialogues/docs/2011_12_armenia_hrdialogue_en.pdf

¹⁰ <http://www.consilium.europa.eu/uedocs/cmsUpload/112892.pdf>

¹¹ http://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/en/er/108603.pdfhttp://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/en/er/108603.pdf

issues, to present its assessment of the situation in Azerbaijan, which was rather critical. Along with the assessment of the situation, the report presented a list of political prisoners in the country¹².

Importantly, the EU has encouraged and supported dialogue among civil society from the EU and EaP countries to discuss issues which are important for civil society. Thus, in June 2011 the Civil Society Human Rights seminar "Working Environment for NGOs in Azerbaijan" took place in Azerbaijan with participation of some 80 civil society representatives from Azerbaijan and the EU¹³. Similar events were organised in November 2009 in Georgia (on media freedom and on the rights of Internally Displaced Persons) and in November 2010 in Armenia (on the right to a fair trial and the independence of the judiciary). In Moldova the EU Delegation organised a Consultative Workshop with Civil Society Organisations in September 2011. It gathered 50 representatives of Civil Society Organisations from Moldova, including Transnistria¹⁴. The idea of the event was to identify and discuss priorities and needs of CSOs related to EU Assistance in the field of European Instrument for Democracy and Human Rights (EIDHR) and Non State Actors and Local Authorities (NSA-LA) Programmes.

To the extent that some partner countries exert pressure to include GoNGOs in these events, their effectiveness might be questionable, but the very fact that the EU organises these *fora* for discussion

3.1.4 Support to international organisations pursuing similar objectives

The Council of Europe is the EU's key partner on issues pertaining to democracy and human rights. The EU funds a number of Joint Programmes implemented by the CoE in EaP partner countries¹⁵. Those activities relate to reform of the judiciary, freedom of the media, access to public information, human rights and many other areas within the competence of the Council of Europe. In December 2010, the EU and the Council of Europe concluded a € 4 million "Facility" for the Council of Europe to implement multilateral activities with the Eastern Partnership countries.¹⁶

The EU also implements joint projects with the UNDP. For instance, the UNDP and the EU implemented election-related projects in Georgia and Moldova within their joint Partnership on Electoral Assistance¹⁷.

Apart from cooperation through funding and implementation of joint projects, the EU makes references in its progress reports and public statements to assessments issued by the CoE (it has a comprehensive monitoring mechanism with strong and in-depth expertise on relevant issues). Since the EU does not have its own election observation mechanism in EaP countries, it relies on OSCE assessment of elections. The EU also encourages the governments of the EaP countries to work closely with the CoE and the OSCE and make use of their expertise.

However, channelling EU support through international organisations raises several issues. First it adds administration and transaction costs and often results in delays at each stage.¹⁸ Second, while a joint steering committee is usually created for joint projects, as a matter of fact, the EU has little control over the project and its compliance with EU objectives.

¹² <http://nhc.no/no/nyheter/NHC+inputs+to+the+Preparatory+meeting+EU-Azerbaijan+Human+Rights+Subcommittee.9UFRDO3a.ips>

¹³ http://eeas.europa.eu/delegations/azerbaijan/press_corner/all_news/news/2011/civil_society_forum_en.htm

¹⁴ http://eeas.europa.eu/delegations/moldova/press_corner/all_news/news/2011/20110928_04_en.htm

¹⁵ List of activities by country can be found here - <http://www.jp.coe.int/CEAD/Countries.asp>.

¹⁶ http://www.coe.int/t/der/docs/SGInf_2011_13_COE_a_strategy_for_values_in_action_-_Activity_Report_by_the_SG_Thorbjorn_Jagland_Istanbul_050528_EN.pdf - p. 11.

¹⁷ <http://www.ec-undp-electoralassistance.org/>

¹⁸ Booth S., Herbert S. 2011 *EU external aid: Who is it for?*, Open Europe, p.14.

What is lacking is a stronger political stance taken by the EU together with other international organisations on certain developments in EaP countries. The Council of Europe sometimes joins local EU statements, as was the case with the arrest of a journalist in Transnistria in April 2010¹⁹, but this is rather an exception. As a rule, the local offices of the Council of Europe do not have a political mandate and this may complicate joint public positions with the EU.

The EU also joined efforts with the World Bank in demanding better public procurement legislation in Ukraine. The EU Delegation in Ukraine and the World Bank issued a joint public statement in March 2011 pointing to deficiencies of the legislation and demanding very specific changes. Simultaneously, this issue received a lot of attention from civil society in Ukraine. A broad CSO coalition, established in March 2011, advocated the necessary legal changes, attempted to attract attention of the broader society to this problem and requested the EU and the World Bank to take a tougher stance. All these efforts provoked a reaction from the authorities and some steps (although not sufficient) were taken to improve the legislation.

3.1.5 Application of conditionality

Conditionality in the EU's policy towards EaP countries has not been applied sufficiently, although it was supposed to be one of the cornerstones of the ENP and EaP from the outset. The ENP Communication published in May 2011 is supposed to strengthen conditionality by introducing the 'more for more' principle. It remains to be seen how this principle will be put in practice; the provisions foreseen under the proposed ENI Regulation are analysed in section 3.

So far, conditionality has mainly been of a rhetorical nature, especially where democracy related issues are concerned. On the one hand, all EaP countries have the same offer, with DCFTA and visa liberalisation as the major objectives, coupled with a standard set of assistance and capacity-building instruments. On the other hand, in principle partner countries' relations with the EU cannot progress unless basic democratic criteria are met. The EU has made this explicit by adopting the 'deep and comprehensive democracy' concept. Yet, it is not clear what specific reforms each country has to undertake in order to be 'rewarded' and what are the 'red lines' which should not be crossed. The EU has to define clear benchmarks in this respect.

Belarus and Ukraine have so far been the most explicit cases of application of conditionality. The EU introduced sanctions for Belarus following the events around the December 2010 presidential elections. Ukraine risks not having the Association Agreement with the EU signed if its parliamentary elections in October 2012 are not free and fair. Still, it is not fully clear what 'free and fair elections' mean and whether the imprisonment of opposition leaders like Yulia Tymoshenko and Yuriy Lutsenko make such elections impossible. Apparently, the EU wants to avoid restricting its space for manoeuvre when reacting to subsequent developments.

There have been only minor cases of application of conditionality with successful outcomes. It would make sense for the EU to build on these experiences to extend the practice to other countries. One example concerns the reform of the environmental policy in Ukraine: in September 2010, the EU made it clear it would not provide budget support for the reform unless the Ukrainian government allowed CSOs to contribute. As a result, the Environmental strategy adopted in December 2010 took into account CSOs' recommendations. Another example, also from Ukraine, entails the freezing of budget support for a number of sectors in response to the adoption of laws on public procurement and the civil service that went against the EU's principles. Importantly, the latter prompted a reaction from authorities only after the EU Delegation to Ukraine made information about the freezing public (in fact

¹⁹ http://eeas.europa.eu/delegations/moldova/press_corner/all_news/news/2010/20100421_01_en.htm

months after assistance was actually frozen). This suggests that conditionality needs to be coupled with communication in the media in order to make a difference.

Apart from these examples, civil society in all EaP countries has been frustrated by the lack of conditionality on the EU's side. This was specifically noted by CSOs from the Caucasus countries that monitored implementation of the ENP Action Plans²⁰. Moreover, civil society in Azerbaijan has consistently noted that the EU emphasises stability and security and economic issues over the democratisation agenda²¹.

3.1.6 Attention when civil society actors are acutely threatened by repressive actions

As noted above, the EU has issued a number of statements concerning repressive actions against CSOs and individual activists - almost all of them on Belarus and Azerbaijan. In Belarus a number of EU declarations concerned individual cases, mainly of former candidates in presidential elections sentenced to imprisonment (such as Mikalay Statkevich and Dzmitry Uss or Andrey Sannikaw) and the civil society activist Ales Byalyatski. In Azerbaijan, the EU issued a statement in May 2011 on release of the journalist and editor Eynulla Fatullayev following a ruling of the European Court of Human Rights. Statements about the sentencing of the two youth activists Jabbar Savalan and Bakhtiyar Hajiyev and regarding the upholding of prison sentences against the youth activists Emin Abdullayev and Adnan Hajizade have also been adopted.

The overall tendency is that the EU is being reactive rather than proactive. The EU took diplomatic measures to prevent some cases, nonetheless it reacted publicly only when certain developments already had taken place. These reactions have so far had a limited impact. It is difficult to say whether the EU has leverage in such situations. When preservation and strengthening of authoritarian regimes seems to be the option preferred by political elites, EU policy offers no instruments that would make these preferences too costly.

3.2 Support for individual CSOs and civil society figures

3.2.1 Financing of CSO projects

A number of thematic instruments in EU external aid instruments other than the ENPI allow support of civil society actors, either exclusively or as part of a wider range of potential partners. The programmes listed below are not specific to the Neighbourhood countries.

The **Non-State Actors and Local Authorities (NSA-LA) in Development** programme²², which aims at encouraging NSAs and LAs to get more involved in development issues, is based on Article 14 of the European Union regulation establishing the Development Cooperation Instrument (DCI). This instrument focuses on fostering NSA and LA participation in policy-making processes at both national and local level through strengthening their capacities.

For the period 2011-2013, a total budget of €703 million has been allocated to this programme²³. The bulk of the funds is going to NSAs. The eligibility rules lay down that not only CSOs, but also natural

²⁰ Hale, J., Progress Towards Democracy Slows in ENP Partners Armenia, Azerbaijan, and Georgia. OSI-Brussels, May 2011. <http://www.soros.org/initiatives/brussels/news/democracy-slows-enp-partners-20110525>

²¹ Böttger, K./Falkenhain, M. The EU's policy towards Azerbaijan: what role for civil society? SPES Policy Papers, Institut für Europäische Politik, Berlin. June 2011.

²² http://ec.europa.eu/europeaid/how/finance/dci/non_state_actors_en.htm

²³ It was not possible to find the amount for the sole ENP region.

persons and private companies may apply. In 2011, 12 out of the 16 ENP countries benefited from the programme.

The NSA-LA funding is allocated through a call for proposals procedure. The complexity and technicality of the required frame for proposal writing, as well as an obligation of co-financing a minimum of 10% of the global budget, exclude many potential applicants. Most of those that do apply are institutionalised CSOs, i.e. organisations which are registered and which employ permanent staff.

The **European Instrument for Democracy and Human Rights (EIDHR)**²⁴, which replaced in 2006 the previous European Initiative, aims at providing support for the promotion of democracy and human rights. Used in non-EU countries it functions according to the regulation/EU statements “with, for and through” civil society organisations. The allocation of EIDHR funds does not require agreement of the government of the country of the beneficiary. The overall EIDHR budget for 2007-2013 amounts to €1,104 billion, allocated as grants to finance projects submitted by civil society and/or international organisations, small grants to human rights defenders, human and material resources for EU election observation missions and grants to support operational costs of the Office of the UN High Commissioner for Human Rights and the European Inter-University Centre for Human Rights (EIUC). The corresponding regulations allow for very flexible use of the funds: the EIDHR provides for the possibility to finance non-legal entities and, through re-granting, allows for the award of small grants to local organisations and to individual human rights defenders. In practice, however, the bulk of the EIDHR funds which reach civil society do so through projects chosen after “Calls for proposals” based on a number of priorities selected locally. As for the NSA-LA programme, this procedure requires a high organisational and technical level of competence from the CSOs, which often conflicts with the objective of engaging with the widest spectrum of actors active in the field.

The **Instrument for Stability (IfS)**²⁵ is the external aid instrument enabling the EU to prevent and respond to crises or emerging crises and support the creation of a safe and stable environment. Various ENP countries have benefited from this fund, including Armenia and Azerbaijan in connection to the situation in Nagorno-Karabakh, Georgia (in connection to the situation with Abkhazia and South Ossetia), Moldova (in connection to the situation in Transnistria), Syria, Lebanon, the Palestinian Territories and Libya. Part of the IfS scheme, the Peace-building Initiative intends to develop the capacity of relevant organisations in pre-crisis situations, for instance to develop early-warning systems and to provide mediation services to address tensions. The IfS has a budget of € 2.062 billion for 2007-2013. The average percentage of funds% channelled towards CSOs is 28.2% over the 2007/2010 period. The Multi-annual Indicative Programme 2011-2013 identifies enhanced capacities of non-state actors and development of a structured dialogue between the Commission and the civil society sector as results to be achieved under the priority ‘building capacities for effective crisis response’. Under the 2011 Action Programme, the first component of the programme (“Improving the capacity of Non-State Actors”) has a budget of € 5 million, i.e. one third of the total annual budget.

The existing instruments provide capacity to support civil societies in non-EU countries in a wide range of sectors, at least in theory. In practice, however, not all options available from EU regulations and procedures are equally applied on the ground. Support to non-traditional CSOs²⁶ and to individual

²⁴ http://ec.europa.eu/europeaid/how/finance/eidhr_en.htm

²⁵ http://eeas.europa.eu/ifs/index_en.htm

²⁶ Non-traditional CSOs, as defined in the terminology used by DFID, include grassroots organisations, faith-based organisations, diasporas, the media and private-sector associations

figures as well as small grants are seldom given. The predominant use of Calls for proposals, which *de facto* excludes wide segments of the host civil society²⁷, is one of the major explanations.

3.2.2 Capacity-building

Cooperation with CSOs remains overwhelmingly **project-based and action-oriented**. Typically, grants under the above-mentioned instruments do not allow for the purchase of equipment, nor do they cover the organisations' running expenditure beyond the part of activities directly linked to the implementation of the funded project. The overhead budget line is usually limited to 7% of the total operational budget – sometimes **as low as 5%**. **CSOs' needs** for improving their organisational, technical and management capacities and their institutional development remain unaddressed under existing schemes. Increased readiness to provide training sessions for CSOs when a call for proposals is published **is not sufficient for opening the scope of partners to a wider range** of grass-root, smaller and non-traditional CSOs.

At the same time, participation in EU calls for proposals and projects both as an applicant and as a grant recipient is a **major learning and capacity-building process *per se*** for a CSO. Conceptualising projects and drafting proposals - including preparing the concept note, narrative description, budget, log-frame and supporting documentation - foster clear and structured thinking among CSOs, especially regarding their plans of action. The process of calls for proposals under EU grants conveys to all CSOs involved a message of responsibility for the quality of outputs. In addition, by applying for an EU grant, CSOs also gain an increased awareness of the types of activities that can be funded and should be undertaken. They strengthen their orientation towards outputs, outcomes and impact. To sum up, being awarded an EU-funded project and implementing it is both educational and rewarding, as those CSOs which have received EU funding have a **special standing in their community**. Nonetheless, there may be exceptions; for instance, in order to avoid that conflicts of interests appear among CSOs monitoring ENP implementation, these CSOs may not request EU financial support.

3.2.3 Help CSOs to gain publicity

In addition to the financial instruments listed previously, "soft" instruments can be used to enhance and/or help protect civil society activists and organisations in a set context. Consultations with civil society platforms and organisations and high-profile meetings with prominent members of local civil societies can be a tool to these ends.

Interaction with the EU also acts as a **multiplier of influence** for partner countries' CSOs. For instance, while not necessarily funded by the EU, national watchdogs' reports on democracy progress or other aspects of reform are shared with EU officials and thus indirectly contribute to shaping EU-partner countries relations, since EU officials discuss these reports with their counterparts in partner countries. The EU seems to have realised that it can help CSOs to gain publicity and higher standing through high profile meetings with EU officials. This has not been the case with individual CSOs and civil society figures, but civil society in general. For instance, the European Commission President José Manuel Barroso and President of the European Council Herman Van Rompuy attended the civil society forum in Ukraine organised by the Ukrainian National Platform to the EaP Civil Society Forum following the annual EU-Ukraine Summit in December 2011. This was an unprecedented event and a strong signal of the role the EU attributes to civil society. Commissioner Füle also meets with CSOs on a regular basis when he travels to Partner countries. The EaP CSF strongly recommended such practice to become regular for all EU top figures in order to support the local civil society.

²⁷ Problems faced by CSOs in the EU's procedures and practices are further developed in Section II.1

Yet, **direct association or visibility with EU officials can be a double-edge sword**, as it may give ground – or pretexts - for accusations of CSOs being aligned with a foreign agenda, and therefore curtail CSOs' legitimacy to exert influence in the local debate. Such processes have been widely observed in a number of Mediterranean countries, with sharp political awareness and sensitive political situations, where groups (e.g. other CSOs with conflicting agendas, political parties of the government itself) have occasionally attempted to use the relationship between foreign institutions and local civil society groups to disqualify the latter in the internal public debate. For instance, in Armenia a human rights CSO which criticised hazing in the army and the lack of subsequent prosecution was recently accused on TV by a high level military official of receiving foreign funding and pursuing a subversive agenda. In such situations, shifting from a bilateral to a multi-donor approach may enhance the protection factor while decreasing the exposure of local groups and/or activists to such allegations.

Sensitivity to the local context, and careful assessment of the possible side effects of direct support should be key to determining the strategy at local level. In the cases of immediate and direct threat experienced by CSOs or key civil society figures, should they be human rights activists, democracy advocates or sectoral CSOs promoting the principles of freedom of association and freedom of expression, these short-term, quick-response instruments should however be used to their full extent. In the future, the launch of a European Endowment for Democracy should complement these informal tools with a dedicated and flexible instrument²⁸.

3.3 Cooperation with individual CSOs (through EU assistance programmes) in order to support their development and to increase the quality and impact of EU actions

3.3.1 Involvement of CSOs in programming, implementation and monitoring of EU assistance

According to a large majority of civil society actors throughout the Neighbourhood area,²⁹ involvement of CSOs in programming and monitoring of the EU assistance remains a weak point. The principle of maintaining a regular dialogue between civil societies and the EU in order to contribute to policy development and to set out a strategy for further engagement in the implementation and the monitoring phases has been acknowledged in the last years. The organisation of structured dialogues at various levels, the elaboration of user-friendly on-line tools directed at CSOs such as the Civil Society Helpdesk website (CiSoCH)³⁰ in 2010 and the deconcentration of aid to EU Delegations have paved the way for significant improvement in this regard.

Although implementation of EU assistance in principle relies more and more on civil society partners, effective consultation mechanisms, tailored to each context and driven by EU Delegations are most of the time lacking in both programming and "monitoring & evaluation". When consultation meetings are organised, a significant part of the attendant CSO representatives perceive the exercise as merely a formality, with overall lack of information on the global process itself and feedback on how these consultations should actually help shape the final programme design and how issues raised will

²⁸ See discussion on the EED in Section 2.1.2

²⁹ Sources : participation of authors in the discussions held under the EaP CSF ; see also <http://www.epfound.am/english/whats-new/success-stories/policy-advocacy-and-impact-learning-while-doing.html>

³⁰ https://webgate.ec.europa.eu/fpfis/mwikis/aidco/index.php/Main_Page

actually be addressed³¹. As a consequence, while CSOs gradually learn to use such consultations to raise their voice, these meetings do not allow to discuss issues concretely and substantially.

On the programming aspect, involvement takes place mostly at stages where Country Strategy Papers (CSP) are being prepared. This was the case back in 2004-2005 when the CSP for the 2007-2013 financial perspective were being developed and at the stage of elaboration of National Indicative Programmes back in 2004-2005 and especially so during the ENPI mid-term review in 2009. During the ENPI mid-term review, in 2009 consultations with CSOs were rather extensive with heavy involvement of EC Delegations. CSOs could also submit their proposals online. The European Commission even issued an Information Note for CSOs to facilitate their involvement³² and gave feedback based on consultations.³³ CSOs are much less involved when it comes to elaboration of annual action programmes. This partially has to do with lack of initiative and capacity on the part of CSOs, since action programmes are very technical and sector-specific; further explanation by the EU Delegation and national governments is needed to strengthen CSOs' involvement.

Experience with planning the Civil Society Facility and the European Endowment for Democracy, and before that with the EIDHR 2011-13 Strategy Paper was more positive. CSOs (especially Brussels-based ones³⁴) were involved from the very outset and contributed to shaping those instruments; nonetheless, partner countries' CSOs did not take part in this process.

CSOs are by and large excluded from implementation processes. On average, CSOs receive 1.4% of total EU funding that goes to EaP countries within the ENPI³⁵.

While efforts have been made since the ENPI's Mid-Term review to associate CSOs in the programming process, better involving them as partners in the monitoring of assistance is a substantial task for the EU. Until now, no mechanisms are in place to ensure a role for CSOs in monitoring and evaluating sectoral programmes targeting CSOs or assistance strategies and action plans, including EU support to partner governments and budget support. This is crucial, since most funding indeed goes as direct budget support. Moreover, budget planning and spending are very closed and non-transparent processes in all EaP countries and finding entry points for CSOs is currently very difficult. In the best-case scenario, it is possible to obtain information about specific sectors and projects that have received funding, but CSOs are not invited to participate in Joint Monitoring Groups/Steering Committees for direct budget support. Moldova is probably the only EaP country that shows some openness. Several think-tanks from Ukraine, Moldova, Azerbaijan and Georgia advised on the kind of entry points which

³¹ CONCORD Working Group on Enlargement, Pre-Accession and Neighbourhood, Contribution to the midterm review of the ENPI documents

³² Information Note for Civil Society Organisations on ENPI mid-term review - http://tuta.neru9.com/iccn.org/ge/text/iccn/berlin/csos_241008_en.pdf

³³ The document can be downloaded here - <http://www.enpi-info.eu/library/content/mid-term-review-enpi-programming-documents-consultations-civil-society-organisations-and-oth>

³⁴ See, for instance, two studies prepared by OSI-Brussels: 1) On Civil Society Facility - http://www.soros.org/initiatives/brussels/articles_publications/publications/enp-csf-20111019/funder-partner-20111019.pdf and 2) On European Endowment for Democracy - http://www.soros.org/initiatives/brussels/articles_publications/publications/eed-paper-20110927/eed-paper-20110927.pdf.

³⁵ See *From Funder to Partner? Prospects for the European Neighbourhood Policy's Civil Society Facility*. OSI-Brussels, October 2011, p.4 - http://www.soros.org/initiatives/brussels/articles_publications/publications/enp-csf-20111019/funder-partner-20111019.pdf

could be developed to make this process more inclusive,³⁶ yet the recommendations have hardly been followed up.

3.3.2 Involvement in monitoring of progress in the implementation of ENP Action Plans and of Association Agendas (replacing ENP Action Plans)

Civil society in all EaP countries, apart from Belarus, has been quite active in monitoring the implementation of bilateral ENP Action Plans (or, in the case of Ukraine: Association Agenda). Most of these monitoring efforts have been funded by Open Society Foundations (Soros Foundations) and partially by the European Commission and some other donors. In the case of Ukraine, between 2005 and 2008 a platform of experts under the auspices of the Razumkov Centre monitored implementation of the EU-Ukraine Action Plan.³⁷ Results of the projects were highly appreciated by the representatives of the Cabinet of Ministers of Ukraine and the European Commission. They were also taken into consideration in the Joint Evaluation Report on the EU-Ukraine Action Plan Implementation published in March 2008 and in ENP progress reports on Ukraine. In 2010-11, a consortium of think-tanks, including Ukrainian Centre for Independent Political Research, Institute for Economic Research and Policy Consulting and Centre for Political and Legal Reforms, undertook monitoring of implementation of the EU-Ukraine Association Agenda.³⁸ In Ukraine these efforts have been a success. Although their impact on the implementation of the ENP AP as such was limited, EU institutions have relied on this expertise, requested information for the progress reports and have repeatedly initiated meetings with representatives of the expert consortium.

In Moldova, monitoring of development of the EU-Moldova relationship (not just the implementation of the Action Plan) was carried out by the Association for Participatory Democracy³⁹, with support from the Soros Foundation-Moldova and DFID. This consortium of experts has published quarterly reports since early 2006.

In Georgia, monitoring was implemented by a number of experts under the auspices of the Open Society Georgia Foundation.⁴⁰ This initiative has been less systematic and the latest report was published in 2010. In Armenia, in 2010 a fourth in a series of civil society monitoring reports was prepared by the Partnership for Open Society Initiative, which also covered a wide range of issues.⁴¹ In Azerbaijan, civil society monitoring was undertaken by the civil society platform Azerbaijan National Committee for European Integration and the latest report was published in January 2011.⁴²

In all these cases, civil society experts raised concerns about the vague formulation of the Action Plans/Association Agenda, the lack of benchmarks and the excessive number priorities, which makes monitoring rather difficult. Access to information has proved problematic in some partner countries where experts can rely on open sources only. Finally, all these initiatives lack a comprehensive advocacy follow up. At best, reports were released and press conferences organised, but no systemic advocacy efforts took place.

³⁶ *Missing Out: Civil Society and ENPI*, International Centre for Policy Studies - http://pasos.org/wp-content/archive/ENPI_2_ExSum_ENG.pdf

³⁷ For the latest report please see <http://www.uceps.org/eng/journal.php?y=2008&cat=115>

³⁸ http://es-ukraina.blogspot.com/p/blog-page_6301.html

³⁹ <http://www.e-democracy.md/en/rm-ue/>

⁴⁰ http://www.soros.org/initiatives/brussels/articles_publications/publications/enpgeorgia-20110102

⁴¹ http://www.soros.org/initiatives/brussels/articles_publications/publications/enparmenia-20110110

⁴² http://www.soros.org/initiatives/brussels/articles_publications/publications/enpazerbaijan-20110110

3.4 Promotion of dialogue with civil society

The creation of a Civil Society Forum (CSF) under the Eastern Partnership (EaP) constitutes a turning point in the EU's support to CSOs in the Eastern Neighbourhood. The EaP CSF was conceived as a major mechanism to strengthen the role of CSOs in programming, implementing and monitoring EU assistance. The EaP CSF's functioning draws upon the EaP operational structures in that it is organised in four working groups corresponding to the four thematic platforms:

- Working Group 1: Democracy, Human Rights, Good Governance & Stability
- Working Group 2: Economic Integration and convergence with the EU Policies
- Working Group 3: Environment, climate change and energy security
- Working Group 4: Contacts Between People

The largest working group, Democracy, Good Governance, Human Rights and Stability, is divided in 6 sub-groups, each of them dealing with specific topics such as public administration, judiciary, independent media and visa liberalisation. In addition to these working groups, the EaP CSF includes national platforms headed by country facilitators; these coordinate activities related to a specific partner country and cooperate between themselves. On top of these structures, the EaP CSF Steering Committee is composed of the 8 working group coordinators, the 6 country facilitators and 3 EU coordinators. Members are appointed for one year out of the CSOs participating in the forum; the mandate is renewable once. Likewise, the Forum's participants are selected through a system of rotation, which ensures openness to new organisations but also introduces the risk of eliminating the most active members (Kaca *et alii* 2011).

The EaP CSF has been successful in fostering networking among EU and partner countries CSOs. In 2009 and 2010, over 300 CSOs from the EU and partner countries were involved in EaP CSF activities. EaP CSF provides a forum for exchange of experience and joint activities between EU and EaP CSOs, thus contributing to strengthening the latter's capacities. In addition, it provides an institutional basis for CSOs' participation in the EaP policy process, especially for monitoring and advocacy functions. Nonetheless, the EaP CSF's contribution is constrained, to some extent, by this forum's own structure (e.g. disproportion of working groups, uneven engagement of participants, frequent change in participants, see Lada *et alii* 2011: 26). In addition, the delivery of projects impinges on the lack of own financial resources. The EaP CSF got funding for specific projects from national governments and development agencies, yet as a forum, it does not benefit from a sustainable financial mechanism for the time being.

The biggest obstacle to the EaP CSF's influence, however, is its limited access to the policy process, owing in particular to the reluctance of some partner countries' authorities. Only on a few occasions has the Forum been able to present its outputs and recommendations before governmental structures. In the future, the EaP CSF may be able to increase its role in the policy process by searching additional support from the EU side (and synergies with institutions which will become increasingly involved in the EaP, primarily the EP). A report on "Strengthening of civil society in the Eastern Partnership Countries" was adopted by the Euronest Parliamentary Assembly in April 2012; it stresses the importance of building and strengthening partnerships between the EU, Eastern Partners and their respective civil societies. The European Parliament should give an impulse to such partnerships - e.g. by hosting a seminar on EU-civil society cooperation involving CSOs, partner countries and other international organisations like the Council of Europe - and support the EaP CSF's pursuit of permanent

participant status in the thematic platforms. Such status has been granted to EaP CSF's representatives for one year, subject to review at the end of 2012. Another major objective is to secure funding with a view to becoming a sustainable mechanism and to developing advocacy projects. This is also critical in view of the persisting gap between EU CSOs and their counterparts in the Eastern neighbourhood, most of which lack capacities and experience of policy dialogue. Currently, three large project proposals have been submitted for EU funding (one under NSA-LA, two focusing on development of National Platforms).

3.5 Recommendations on improving EU relations with civil society actors

Although the EU has recently improved its record of promoting a better environment for civil society in EaP countries, much further improvement is necessary. The EU needs to think long term and formulate a proactive strategy for turning civil society in EaP countries into a real reform partner and develop proactive thinking rather than chiefly reacting to adverse developments. Although the EU discursively treats civil society as a reform partner, the rhetoric has not been followed up on the ground and reflected in EU policy instruments towards EaP countries. Such a strategy would have to be based on a comprehensive set of instruments, which would ultimately empower civil society vis-à-vis the authorities in EaP countries, as suggested below:

First, improving relations with CSOs also requires **fostering their inclusion in the dialogue and policy process conducted by the EU and the partner countries**. This can be achieved using a variety of tools, e.g. by:

- arranging tripartite meetings,
- inviting CSOs (based upon a well-communicated, transparent selection process) to monitor EU-partner countries negotiations, e.g. of association agreements. Currently, the criteria for inviting CSOs are unclear; moreover, most invitations are launched at very short notice and with no detailed agenda. Appointing a coordinator for meetings with CSOs, delegates from a range of CSOs as contact persons for such meetings or establishing a system of rotation between CSOs are possible solutions to ensure a transparent and effective invitation process.
- systematically consulting CSOs at all stages (draft, final draft) of assistance programming and monitoring and designing special provisions for that purpose in EU assistance regulations,
- supporting the EaP Civil Society Forum's systematic participation in the EaP's multilateral track, e.g. in thematic platforms meetings and panel meetings,
- In addition, the EU should increasingly fund the monitoring of ENP Action Plans by CSOs across the neighbourhood.

Second, the EU should **review assistance procedures for the support of civil society actors**, including for enabling them to participate in the dialogue and policy processes. Currently, these do not allow effective inclusion of some segments of civil society (e.g. non-traditional CSOs and individual figures). The proposed EU regulations are examined in more detail in part 3 of the study.

Third, the EU needs to **practice open criticism of developments in EaP countries**, which are important to civil society in those countries. Public support from the EU would strengthen relevant CSOs' efforts. This entails:

- systematically and firmly condemning any deterioration in the operating environment for CSOs
- systematically and strongly calling for inclusion of CSOs in the policy dialogue

Fourth, in its annual progress reports, the EU needs **to be more sensitive to specific conditions in each country** instead of steadily tending to put each country in a broader context and relativise. The EU should focus on trends within the individual countries - which does not preclude stimulating emulation when helpful.

Fifth, the EU needs **to pay more attention to the regulatory environment for civil society in ENP/EaP countries**. This issue has received too little attention from the EU, while the regulatory environment for CSOs in practically all EaP countries has deteriorated in the past years. The EU should enhance its support to projects helping to build a better operating environment for CSOs.

Sixth, the EU needs **to introduce targeted conditionality and couple it with media resonance**. For instance, the EU could link the delivery of budget support to the effective involvement of CSOs in the policy process.

Seventh, the **EU needs to better join efforts with other international organisations**, particularly the Council of Europe. The latter has strong expertise where democracy and human rights issues are concerned, but it does not enjoy the same leverage and degree of influence as the EU. It is therefore suggested to make an increased use of joint statements, while joint assistance projects should take place only when there is a clear added value to avoid duplication as well as additional administrative costs. This entails taking effectively into account the respective expertise, the comparative advantages and the experience gained by the EU and the Council of Europe in the neighbourhood.⁴³ In light of the revised ENP approach which makes cooperation with the Council of Europe even more important, the EU should commission a study with a view to mapping and assessing joint projects across the neighbourhood.

4. PROPOSALS FOR IMPROVEMENT OF EU PROCEDURES FOR CSOS AND ASSESSMENT OF RECENT REGULATIONS PROPOSALS

4.1 Problems in EU procedures/EU support to civil society

4.1.1 Problems in the EU's procedures and practices in relation to support for civil society

Major problems in EU procedures and practices in relation to support for civil society experienced by CS actors

Current processes seem to build on the assumption that a wide-enough spectrum of CSOs has the capacity to engage in the competition process on fair grounds. This assumption conflicts with the authors' impression that there is widespread frustration among CSOs over the fact that only a few of them have a real chance to gain access to EU funding.

Support for building the institutional and organisational capacity of targeted segments of Community-Based Organisations (CBOs) should be the first challenge to address, as a way to primarily widen access to EU assistance funds, and beyond this, to promote the voice and standing of a truly diverse and representative local civil society in public debates.

A number of provisions in the current regulations already give the opportunity to mitigate some of the identified obstacles. Under specific circumstances, 100% funding for grants to CSOs are made possible ; non-registered CSOs can be eligible for funding ; sub-granting of funds by a beneficiary partner to

⁴³ For example, in the reform of the judiciary for the EU (especially in the South Caucasus).

smaller-size CBOs is also foreseen, though with strict limitations in the share of the budget that can be re-granted in a “cascade” set-up.

In summary, under the existing schemes, various provisions have side-effects which actually reduce the capacity of the EU assistance to meet stated objectives with regard to civil societies: grass-root organisations and CBOs are excluded, the scope of partners is limited to a small pool enjoying continuous funding,

To address this critical issue, the EU should attempt to reduce the burden for applicants by simplifying the application procedures and lessen financial requirements, while also allowing increased flexibility in case circumstances change. Existing provisions already allowing for a more differentiated approach should be used to full extent. Most importantly, the EU should consider making application and reporting requirements proportional to the size of the CSO, as well as to the size of the grant. This is particularly important as excessive administration demands can fundamentally impact on the effectiveness of small CSOs work. Developing sub-granting schemes should also be explored with a goal to reach and support small CSOs and CBOs with small size diversified grants, adapted to the CSOs’ absorption capacities.

The problems currently experienced by CSOs in EaP countries can be grouped into the following categories: capacity-related problems; problems related to the operational context; relational problems and strategic problems.

Capacity-related problems are those which refer to the lack of those basic skills needed to participate in EU support schemes for CSOs and to engage in a dialogue with the EU.

The nearly systematic use of calls for proposals to allocate funds pertaining to the different financial instruments is seen by many civil society actors across the EaP region as a major obstacle. Calls for proposals are effective tools for ensuring fair competition for access to funds, as well as for guaranteeing transparency in the selection of partner organisations. However, the heavy process incurred prevents a large number of non-traditional and small CSOs from taking part. Among the concrete obstacles, it is worth mentioning:

- a template for application seen by many as very complex, requiring specific understanding of the Project Cycle Management approach and logic as well as understanding of the specific terminology in use,
- a time-consuming process, in which organisations with few resources and staff can hardly engage,
- the chronological sequencing of submitting a Concept Note and then, if approved, a full proposal for action is not systematically observed,⁴⁴
- a de facto obligation to submit both documents at the outset implies a heavy investment, which must be weighed against the perceived chance of passing the competitive selection process,
- the language barrier, as only English and occasionally French are accepted languages for proposal submission.

Reporting and monitoring requirements as per the standard procedures also require solid internal management skills and dedicated resources, which is precisely what is often lacking in the case of non-

⁴⁴ There is no ground for suspecting that officials in charge see non-observance of the sequencing as a means to dissuade weaker potential applicants from applying and/or as a means to limit their own workload. We have found no evidence of such practices.

traditional CSOs. If and when funding has been granted under an EU programme, report writing and alignment with EU procedures tend to become the main concern, ahead of quality insurance.

Financial constraints also play a crucial role in discouraging potential stakeholders and consequently in reducing the scope of partners: co-financing operations, even in proportions as seemingly low as 5 or 10% can be seen as a definite impediment, as in-kind contributions are not accepted to fill the gap. Finally, disbursement of funds as per standard contracts de facto excludes organisations that do not enjoy sufficient pre-existing cash flow.

The process of calls for proposals, in its current practice, does not leave space for a constructive dialogue between the potential applicants and the EU representation at the project design stage: proposals submitted are assessed per se – at times by external consultants – regardless of the applicant's specific situation, added value in terms of local rooting and legitimacy, and comparative advantage vis-à-vis other actors. Cases of CSOs hiring an external expert for the sole purpose of drafting a state-of-the-art proposal, disconnected from the organisation's structure and real skills are not unusual.

Experience demonstrates that these are remediable problems for those CSOs which benefit from EU funds. Many CSOs have substantially increased their skills over the past few years, while receiving EU support. At the same time, a significant number of grass-roots CSOs still lack the above skills. This problem could be further addressed by:

- As part of the support measures under ENI/EIDHR, channelling more trainings for grass-roots CSOs under EU-funding schemes, e.g. on application procedures, project design, project management and implementation, reporting and other aspects of the project management cycle.
- In exceptional cases, designing specific simplified procedures, accepting e.g. applications in a local language, simplified log-frames and budgets for smaller scale funding to grass-roots CSOs. Such procedures would be particularly useful for CSOs based outside capital cities and in special cases such as CSOs in non-recognised entities supported via the Instrument for Stability. Such a scheme for small grants with simplified procedures could be developed as part of the EED.
- Favouring transfer of experience among local CSOs via issue-based, country-wide networks which could train grassroots CSOs.
- Creating a group of experts from advanced local CSOs who could train grass-roots CSOs

Operational context problems refer to the political, economic and societal environment in which partner countries' CSOs operate. Conflicts of interest, nepotism and clientelism are widespread phenomena in the EaP societies. Similarly, there may be cases of fraud and/or misappropriation of funds. The EU has designed several mechanisms to tackle these problems. Nonetheless in the situation of relatively smaller-scale funding to local CSOs (less than e.g. €100,000), these mechanisms may not be fully applied to such cases, and EU funding can inadvertently support the crystallisation of bad practices. This should be pro-actively remedied by targeted anti-corruption and procedures trainings for local CSOs, as well as by requesting additional information on their internal procedures before funding; by more frequent site visits; and by communicating examples of bad practices publicly and discussing them as case studies, without sensitive data being made public.

Another example of operational context problems pertains to unfriendly environments because of the non-democratic nature of the government in the recipients' home country. The EU then has a variety of funding schemes at its disposal, such as: proxy funding (funding of another CSO with good standing in the eyes of the government which essentially 'hires' the CSO-implementer of the project or its staff);

funding virtual projects (project implementers and beneficiaries communicate only via internet); funding expat CSOs; engaging local CSOs in network projects via a funding chain; etc. These schemes require exceptions to the existing processes and may give rise to suspicions. Therefore, it is essential to limit them as much as possible on the one hand; and on the other hand to raise with the recipient government the issue of the legal environment in which CSOs operate.

Relational problems refer to the EU's communication with CSOs. The EU earlier communicated only in a limited way about the funding opportunities. As a result, CSOs learnt by themselves how to identify funding opportunities, develop project proposals etc. In the sections focusing on grant-making, the EC's Practical Guide⁴⁵ does not sufficiently take into account the needs of CSOs and grass-root organisations, especially non-EU organisations. For instance, it provides significant discretion on such issues as where to advertise funding opportunities, while these should be broadly disseminated and easily available; how to promulgate them; how many in-person gatherings with prospective applicants should be arranged etc. To target local CSOs, information should be made available via local media and/or social media. It is therefore particularly important to add to the Practical Guide specific procedures on issues such as personnel recruitment and management; internal departmental management. Addressing relational problems is currently essentially left to EC Delegation staff; while overall guidelines could be proposed to all Delegations, it is also important to take into account their differences and specificities by organising targeted trainings.

This leads us to the last type of problems: '**Strategic problems**'. These pertain to the most difficult type of problems which local CSOs experience vis-à-vis the EU and its funding opportunities. On the one hand, the EU's support has proved crucial for the ability of CSOs in the neighbourhood to develop and such support should be further emphasised under the revised ENP. On the other hand, the fact that the EU has adopted a state-centred style of relations with neighbouring countries has raised mistrust among the CSOs. This mistrust is primarily directed towards their own state and governmental structures and concerns not least their use of funds from the EU and other international donors. It may grow if in a context of increasing cooperation and interaction with EU, states fail to demonstrate change. Mistrust also stems from the fact that EU-relations with partner countries have generally developed outside CSO scrutiny and participation. The general public and CSOs had little access to major policy documents at their development and negotiations stage and the same goes for the EU's funding decisions, including budget support.

To further address this significant problem, the EU should pay special attention to increasing communication and consultation with local non-state actors at every stage of the process: negotiation of country strategies and/or association agreements; the preparation of projects based on these plans; the process of working out the wording of funding opportunities. Furthermore, the EU should promote targeted training for state institutions benefiting from funds, with a view to developing a performance-based approach and accountability. Engagement in such sensitive processes requires enhancing the quality of personnel, redesigning some procedures, developing capacity-building for state actors involved in implementation, and adding requirements in calls for proposals (e.g. disclosure of all funding sources; answering a questionnaire for identification of potential conflicts of interests). However, with societies becoming extremely sensitive to the lack of transparency in public expenditures, this is also a crucial and potentially rewarding task for the EU.

⁴⁵ The Guide specifies the procedures to be followed under all EC's external assistance contracts. A new version was issued in February 2012.
<http://ec.europa.eu/europeaid/eprag/document.do?chapterId=1.&id=126>

Major problems in the EU's procedures and practices found by the EU institutions or others commentators

In a special report dedicated to the Commission's management of non-state actors' involvement in EC Development Cooperation worldwide, the European Court of Auditors concludes that NSAs' involvement has been limited and falls short of the sustained and structured dialogue envisaged by the EU legislation and the Commission's own guidelines.⁴⁶

In particular, the Court's conclusions reflect the above-mentioned problems of weak involvement of CSOs in programming and monitoring of EU assistance, and they are shared by major CSO representatives across the neighbourhood. When it comes to assistance procedures for EU support to CSOs, the Court's assessment is mixed. The first capacity-development programmes, while found to be highly relevant to the needs of NSAs in the beneficiary countries, did not reach their full potential mainly because management procedures led to delays that worsened the prospects for effectiveness and sustainability. The programmes are also faced with the inherent contradiction of supporting capacity development of the NSAs most in need by means of a procedure (Calls for Proposals) which is designed to select the best performing NSAs. In addition, the Court noted that the guidance provided to NSAs on how to apply EC rules is insufficient.

A study submitted to the European Parliament in November 2010⁴⁷ also provides insight into problems encountered by CSOs worldwide. The report, based on a comprehensive survey involving 120 CSOs, considers the issues of enhancing dialogue on content, improving implementation of programmes and addressing structural deficiencies. Its conclusions and recommendations are consistently in line with the observations made at Neighbourhood level.

Finally, evaluations of EU assistance in neighbouring countries raise major questions as to the relevance and the impact of EU support to civil society. As noted in the evaluation of EC support in Tunisia, those EC interventions which directly targeted at CSOs were not implemented at all in a context of strengthened state control over CSOs⁴⁸. In Ukraine, the Commission supported the development of Civil Society Organisations without paying sufficient attention to sustainability.⁴⁹

In summary, institutional and structural problems faced by CSOs affect the effectiveness of EU support to civil society. At the same time, current EU procedures do not allow to adequately address these structural deficiencies, be it in the Neighbourhood or elsewhere. In its 2011 resolutions on the review of the ENP-Eastern and Southern dimensions, the EP calls for an increased focus on cooperation with civil society and further institutional and financial support to CSOs, as these are considered the major driver for change in the neighbourhood.

4.1.2 The 'GoNGO' problem

When supporting CSOs in the neighbourhood, the EU is increasingly confronted with the problem of GoNGOs – usually entities registered as NGOs with transparent albeit unofficial links with governmental

⁴⁶ European Court of Auditors. 2009. *"The Commission's Management of 'Non-State Actors' Involvement in EC Development Cooperation"*, Special Report No.4

⁴⁷ Ackermann, R. et alii. 2010. *Report to the EP Directorate General for Internal Policies, Financing of Non-Governmental Organisations (NGOs) from the EU budget*, Study, November. http://www.europarl.europa.eu/meetdocs/2009_2014/documents/cont/dv/5_study_/5_study_en.pdf

⁴⁸ Evaluation de la coopération de la CE avec la Tunisie, 2011

⁴⁹ Evaluation of the European Commission's Co-operation with Ukraine, 2010

institutions. The development of government-sponsored organisations is a growing trend.⁵⁰ Local governments are increasingly concerned by their relations with international organisations and image within the international community. Authorities may perceive GoNGO creation as a more effective tool for controlling civil society than crackdowns on NGOs. Government-backed NGOs indeed ‘muddle the voice of legitimate civil society’.⁵¹

GoNGOs are found in every country around the Mediterranean; the problem is more acute in those countries where the government tend to curb or control the development of CSOs. In EaP countries, GoNGOs reflect most of the deficiencies in the reform process. These deficiencies originate in the late Soviet area, when a huge gap developed between the official ideology and a reality characterised by corruption and personal use of public goods. After the USSR collapsed, a similar discrepancy persisted between the democratic rhetoric and the use of state positions for personal gain. Mistrust towards election and state institutions derives from this façade reality.

GoNGOs belong to this very situation of double standards. On the one hand there are genuine NGOs, on the other GoNGOs which absorb funding and attention and marginalise genuine NGOs. GoNGOs usually enjoy a relatively high level of professionalism, comfortable resources and solid connexions with power brokers both nationally and internationally. All these factors put them in a privileged position to deliver technical expertise (and subsequent project proposals) up to the level expected by international donors. However, in most of the cases, they fail to convey an independent voice and lack any rooting in society, especially in Southern countries. Calls for proposals – a process for which they have sometimes been shaped from the beginning – naturally gives them a decisive advantage over many competitors who struggle to adapt to the regulations. Peer reviews conducted by CSOs can only address part of the issue as long as current evaluation grids under EU calls for proposals are not modified, as the comparative advantage of genuine CSOs lies in their rooting in society and their representativeness of segments in the society – criteria which these grids do not take into account. If considered in the same global category (“CSOs”), GoNGOs will most probably retain an important share of budgets allocated, taking profit of their technical competitiveness and of the perceived need “to balance” funding so that the relationship with local governments remain on safe ground.

In the Eastern neighbourhood, CSOs ‘inherited’ from the Soviet times (such as Unions of Writers); and/or CSOs which appeared opportunistically as a reaction to available external donor funding, and/or which are sponsored by authoritarian governments to help build the facade reality presentable to the West, are particularly prone to perpetuate the old system of values. On the other hand, CSOs which originated in dissident movements and often became human rights protagonists after the independence also face a challenge, as they may become too partial in their struggle with the state’s abuse of power and as a consequence, they may be perceived as politicised and associated with the opposition. Some GoNGOs, particularly the ones inherited from the old Soviet times (such as the Unions of Writers), can be reformed through a specific programme enhancing project management skills and engaging these organisations in new activities. The situation is different for those GoNGOs which have been set-up by the governments or co-opted by them. The first problem relates to the fact that these GoNGOs are not easily identifiable. The following questions provide criteria which, if taken systemically, may help in this identification process:

- Is this particular CSO set up by a current or former high-level state official?
- Does it accept transparent and comprehensive audits; does it declare all its sources of funding?

⁵⁰ Naím Moisés. ‘What is a GoNGO?’, *Foreign Policy* No.160, May-June 2007.

⁵¹ *Ibid.*

- Has it achieved important impact-level change via its various projects?
- Does it have internal procedures (board meetings, policies and procedures handbook etc) which help an outsider to determine whether it is mission-driven?

Those CSOs which do not pass the test should be included in a 'black list' which preferably should be made public.

There are, however, some 'façade' criteria, which should not be taken into account while distinguishing GoNGOs from non-GoNGOs, such as the CSO leader's:

- English language skills (lack of such skills does not necessarily mean that he/she is a genuine grassroots representative),
- informal relations with the government (quality and extent); capability of implementing large-scale events, such as a conference in which high level government officials agree to deliver speeches;
- public profile and media exposure (quality and extent).

Lines on which CSOs may be classified should be further explored and on the basis of classifications, specific schemes could target each CSO segment with adapted and separate tools.

At the same time, it is important to remember that, as mentioned above, the GoNGO problem derives from the regional situation. It is not the major obstacle to EU-promoted changes in the neighbourhood. The primary problem relates to citizens' mistrust towards the state. Therefore, it is crucially important to include tested CSOs in EU-Partner countries relations. The points above demonstrate that not only should the EU be wary of funding GoNGOs; it should also convince societies that it is not funding GoNGOs, but the best of the best CSOs. The general public is indeed suspicious towards every aspect of external funding-related operations.

4.1.3 Possible EU responses to other obstacles put up by authorities trying to curb CSO activities

As mentioned above, official registration of CSOs is not a pre-requisite for accessing EU funds when considering the financial regulations. However, eligibility rules and guidelines in many calls for proposals actually imply that only registered CSOs are eligible.

Government restrictions on external funding are not easy to address. While joint donor advocacy to prevent such legislations should be the first step, once enacted, restrictions are unlikely to be amended. Each legislation being different, the EU should explore ways to continue support to local organisations without putting them at risk. Depending on local constraints, this may take the form, for example, of channelling funds through national foundations with specific status (for instance like the Eurasia Foundation Network⁵²).

4.2 Assessment of proposed regulations

4.2.1 Assessment of the emerging new overall architecture for the EU's financial support for civil society (CSF, EED)

The newly stated EU intention to foster a "partnership with societies" in its neighbourhood translates into **a stronger emphasis on support to local society actors**. It is worth noting that in the 2007-2009

⁵² <http://www.eurasia.org/network>

period, only 1.4% of EU funding to the Eastern neighbourhood went to CSOs⁵³. Complementing existing instruments, new mechanisms are being set up in the frame of the revised ENP. In order to make EU support more accessible to CSOs, a dedicated Civil Society Facility (CSF) has been established within the ENPI. Simultaneously, a European Endowment for Democracy (EED) is foreseen to support political parties, non-registered CSOs, trade unions and other non-state actors and social partners. These new mechanisms need to articulate with the ongoing thematic instruments such as the EIDHR, the IfS and the DCI/NSA-LA in a consistent manner. The creation of these new mechanisms is part of the response to the widely observed need for further differentiated support schemes for CSOs.

The Civil Society Facility

Unlike other instruments, the CSF is exclusively dedicated to CSOs. Its objective is to support development of CSOs' advocacy capacity and to increase CSOs ability to monitor reform and to participate in policy dialogue⁵⁴. As a first step, €22 million were allocated in 2011⁵⁵. There were *or* are 3 components: 1) support to CSOs to promote reform and public accountability; 2) Support to CSOs through regional or country projects; 3) Support to the involvement of CSOs in sector policy dialogues between the EU and partner countries and in the implementation of bilateral programmes. Capacity building needs of beneficiary CSOs are taken into account through the development of a set of training modules adapted to specific needs. One of the CSF purposes is to reduce the bureaucratic burden so as to allow small and medium as well as non-traditional CSOs to access funds.

The CSF may help **raise the EU profile** among civil societies in the neighbourhood, provided that it **actually succeeds in reaching wider segments of the civil societies**. For this, **adjusting implementation modalities** so that they match the capacities of a majority of CSOs is key.

Despite a focus on relevant issues, the CSF has started using the standard funding mechanisms. Calls for proposals at central and national levels, together with technical assistance, are the two channels introduced. In the last call for proposals, the facility has been made part of the larger ENPI call for proposals for NSA. This situation does not lead to any qualitative change and it is confusing for CSOs.

To serve its objective, the CSF regulations should:

- allow for greater financial flexibility with increased opportunities to commonly fund projects up to 100%; consider the possibility of pre-financing, taking into account the hardship incurred by the current disbursement procedures;
- combine calls for proposals at a national level (i.e. set up a decentralised system involving a national Contracting Authority) and at a centralised level (i.e. managed by the European Commission);
- Consider developing possibilities for increased sub-granting⁵⁶ mechanisms, e.g. through national civil society development foundations, thus allowing for a broader support and multiplying small grants.

⁵³ We could not find any figure for the Southern neighbourhood. However, we do not expect figures to significantly differ for those found for the Eastern neighbourhood.

⁵⁴ HR / VP-Commission Joint Communication, *A partnership for democracy and shared prosperity with the Southern Mediterranean*, 2011

⁵⁵ *Action Fiche for Neighbourhood Civil Society Facility 2011*

⁵⁶ Sub-granting is the process whereby, where the action so requires, a [grant](#) may be re-allocated to third parties (usually smaller CSOs). Sub-granting concerns pre-defined activities to be carried out by entities not identified at the time of submitting the application but which will be selected by the [beneficiary](#) of the grant

To achieve complementarity with other financial instruments, in particular the NSA-LA, particular emphasis should be put on institutional core grants rather than projects focused on service delivery. The CSF provides for both types of projects, without establishing a clear priority. It is also advisable to:

- progressively integrate qualitative assessments of project impact in addition to quantitative data,
- consider increased support to CSOs specialised in watchdog activities, in particular monitoring of EU funding and national budgets, including budget support,
- promote models allowing for mentoring involving a strong / senior organisation together with grass-root CSOs or a network of such CSOs.

The creation of a new dedicated fund for CSO is **a very positive step towards an improved balance in the EU's assistance**. Yet, its success will largely depend on the extent to which it will be made user-friendly, quick and flexible. These drivers will need to be addressed mainly through the set of procedures adopted, for which recommendations have been made above. However, **the CSF is not mentioned in the draft new ENI Regulation. The EP should ensure its formal inclusion, for example in a recital.**

The European Endowment for Democracy (EED)

The EED is primarily intended **to support democratic political actors, including political parties and media**- a segment of civil society which has so far not received EU assistance. It is also meant to serve the **"deep democracy" concept** outlined in the ENP document. Its specific role and modalities of implementation remain to be specified.

First of all, clear distinction should be made so that the EED would complement the EIDHR mechanism rather than compete, or even less replace it. In order to maximise its impact, **the EED should target civil society groups that are under-represented under existing mechanisms**. These include the media, diaspora groups, individual dissidents, think tanks and social movements, along with political parties and entities. To counter-balance the support to independent and/or opposition figures and parties, the EED should also support government-led systemic reforms (e.g. electoral reform, voter registration) which enable political parties to function.

Approaches need to show greater flexibility than the EIDHR to gain access and support these groups with activities that could cover a wide range of situations (including capacity building, technical assistance, grant-making, peer links and inter-party dialogue).

As already mentioned in relation to the CSF, procedures need to be adapted to these segments of civil society. Our recommendations regarding the EED are similar to those for the CSF and include increasing the number of small grants, removing the co-financing threshold, extending re-granting and taking decisions locally as far as possible. The EED should be positioned as a risk-taker to advance the objectives of the ENP, while other instruments may continue supporting mainstream civil society actors in the long term through capacity building, project support and core funding.

The various instruments targeting CSOs, either partially or exclusively, are meant to contribute to the overall objectives of the ENP. To maximise the impact of each instrument, a logical set-up with clear differentiation must be adopted, not least in order to make it possible for CSOs to find their way through the multitude.

The careful design and clear-cut role of each instrument available to enhance the central role of CSOs need to be matched by equal emphasis on the environment in which CSOs operate. Funding needs to be accompanied by political support, including action towards partner governments, as dealt with in section 2 above.

Equally important, **the EU delegations capacity should be supported with adequate resources and training (e.g. trainings on communication with local CSOs, trainings for local staff...)** to handle **increased responsibilities under the revised ENP** and the management of the CSF in particular.

Finally, the impact of the CSF could be multiplied by furthering the coordination among donors, starting with EU / bilateral joint support.

4.2.2 Analysis of the concrete procedures for civil society support included in the proposed regulations

As noted above, access to funding for non-state actors has been hampered by burdensome procedures and scattered information. Simplifying the regulatory environment and improving access to EU assistance for civil society organisations (among others) are presented as priorities under the proposed ENI Regulation. The proposed Regulation on common rules for the implementation of EU external action further indicates that ‘In applying this Regulation, the Commission shall, where possible and appropriate in light of the nature of the action, favour the use of the most flexible procedures in order to ensure an effective and efficient implementation’. Yet, **many provisions included in the draft regulations are not sufficient to enable a qualitative change in EU support to civil society.** The section hereafter highlights some gaps in the current proposals while section 3.2.5 suggests recommendations for improvement.

The possibility of **waiving co-financing requirements** (mentioned in Article 4.3 of the proposed ENI Regulation) **can be seen as a step forward** to encourage the participation of CSOs in EU assistance and to foster the diversity of CSOs applying for EU funding. Nevertheless, such a possibility is limited to “duly justified cases and when this is necessary to support the development of civil society and non-state actors, without prejudice to compliance with the other conditions set out in the Financial Regulation”. As mentioned above, co-financing requirements are major obstacles to CSOs’ participation in EU assistance.

To some extent, **provisions on conditionality in the draft ENI Regulation constitute a step backwards.** Indeed, in the event of violations of human rights or the rule of law, the possibility of redirecting assistance towards non-state actors is not mentioned under the proposed ENI Regulation, whereas it was explicitly foreseen under the ENPI Regulation.

The proposed Regulation on common rules for the implementation of EU external assistance mentions “the costs of controls, the administrative burden, and the expected risk of noncompliance” as the elements to take into account for selecting implementation methods and types of financing. As far as CSOs are concerned, the possibility **to use lump sums and flat rates** is expected to simplify access to EU funds. However, as pointed out by CONCORD, it should not be universally imposed on grant beneficiaries for the following reasons.⁵⁷ First, the calculation of standard costs should be adjusted to each country’s context, although this significantly increases the administrative work. Second, the actual costs might either be lower, in which case a profit will be reaped (which is contrary to the non-profit principle) or not be fully covered by the standard costs, which would cause financial difficulties for the

⁵⁷ CONCORD. *Contribution to the Review of the Financial Regulation. The External Aid Perspective*, 3 February 2011.

grant beneficiary. Finally, it could be difficult for grant beneficiaries to raise the co-financing that is almost always required for EU grants, as most co-donors do not accept lump sum type budgets.

The proposed EIDHR Regulation brings a significant change in relation to direct low-value grants to human rights defenders for urgent protection: a possibility to cover the costs of travel and settlement in another country is added.

The revision of the Financial Regulation is also expected to facilitate the participation of civil society organisations and small businesses in funding programmes, for example by simplifying rules, reducing the costs of participation and accelerating award procedures.⁵⁸

4.2.3 Comments on proposed provisions for involvement of CSO representatives in programming, implementation and monitoring of EU assistance

Better involving CSOs is part of the ENP's revised approach which calls for strengthening the partnership with societies of the neighbourhood with a view to developing a "thriving civil society". More specifically, the EU is expected to support 'their [CSOs] ability to monitor reform and their role in implementing and evaluating EU programmes. In-country EU Delegations will seek to bring partner countries' governments and civil society in a structured dialogue on key areas of co-operation'.⁵⁹

However, **such ambitious partnership with societies is only to a limited extent reflected in the proposed ENI Regulation**. Article 4.3 provides that "Union support under this Regulation shall, in principle, be established in partnership with the beneficiaries. The partnership shall involve as appropriate, national, regional and local authorities, other stakeholders, civil society, social partners and other non-state actors in preparing, implementing and monitoring Union support".⁶⁰

Thus, the proposed Regulation does not envisage **any concrete procedure nor any mandatory provision** to strengthen the role of CSOs in either programming, implementation or monitoring of EU assistance. The risk is therefore to **have CSOs' involvement varying across the neighbourhood** depending upon the local context and the willingness of national authorities to involve NSAs. This would hamper the development of a real partnership with societies of the neighbourhood. To prevent such risk, concrete provisions on how to engage with CSOs in the preparation, delivery and evaluation of EU support should be included in the ENI Regulation (see proposals in section 3.2.5 below).

4.2.4 Comparisons with procedures and practices used by other donors leading to identification of best practices, interesting models or useful lessons

DFID's experience with civil society

DFID has a long track record of supporting civil society actors in its partner countries, recognising early on the benefits of a vibrant and solid CSO sector to feed the public debate and to achieve progress in terms of accountability and governance. Parallel to a development agenda, DFID has developed specific strategies focusing on politics, i.e. the formal or informal processes by which states, leaders and citizens relate to each other to make change happen. The focuses on "drivers of change" and on "citizens' voices" have led the Department to **identify non-traditional CSOs as critical actors** in this process. Such non-traditional CSOs include grassroots organisations, faith-based organisations, diasporas, the

⁵⁸ European Commission, 'Proposal for a Regulation of the European Parliament and of the Council establishing common rules and procedures for the implementation of the Union's instruments for external action', COM (2011) 842 final, p.2

⁵⁹ EEAS/European Commission, 'A New Response to A Changing Neighbourhood', COM (2011) 303, p.4

⁶⁰ European Commission, COM (2011) 842 final, op.cit.

media, social movements, membership association and private sector associations. These segments of the civil society were assessed as more representative and enjoying greater political access than the CSOs it had historically supported.

DFID has supported numerous programmes involving a variety of approaches. The following paths have been instrumental in reaching the non-traditional actors⁶¹:

- **Providing diverse, experimental funding with strong facilitation capacity** (i.e. more flexible conditions) allowing donors to identify “winners” and nurture coalitions through incremental learning;
- **Working with intermediaries** with a track record of working with certain non-traditional groups;
- **Facilitating the development of a cascade of different funding mechanisms** to reach different groups within society;
- **Differentiating grant-making**, minimising reporting requirements and giving partners the space to fail and learn from their mistakes.

Non-traditional CSOs are often weakly organised and lack institutional capacities. The funding obligations and reporting requirements usually in use do not fit their internal structure, and carries the risk to undermine their own dynamic, which may draw on loosely associated membership, hence the need **to adjust funding procedures to their capacities and accept moving towards a risk-taking approach.**

Areas of best practices in reaching non-traditional CSOs have also been identified. The following observations are selected considering their relevance in the Neighbourhood area:

- The media is a key driver to promote accountability
- Partnership with local faith-based organisations enjoying membership, networks, legitimacy and political access have achieved results unmatched by many other civil society actors
- Networks have proved highly effective means of scaling up best practices

Though initially working directly to facilitate civic engagement between civil societies and the state, DFID has progressively shifted its approach **to engaging intermediaries in the process**, in the context of increased involvement in multi-donors support. Depending on the local situation, these intermediaries include local CSOs and networks, international CSOs, private management companies, national foundations and community funds. To promote local ownership, enhance legitimacy and ensure sustainability, donors tend to select local actors as the intermediary, either local foundation or community funds, occasionally after a transition period during which an international actor may start the process.

Yet, working through a local intermediary carries significant risks, both for the intermediary itself (e.g. increased exposure to state threats), and for the global efficiency of the mechanism (e.g. over-dependence on charismatic individuals or monopoly on funding to CSOs). Decision to resort to such facilitator should be carefully weighed against these limitations.

⁶¹ ODI, Multi-donor support to civil society and engaging with ‘non-traditional’ civil society, A light-touch review of DFID’s portfolio, Report, June 2007

DFID has accumulated a valuable experience in designing strategies to best support civil societies and tailor instruments and procedures that are adapted to the needs and capacity of different segments within the CSOs. The EU should learn from DFID's experience in its current effort to shape the new Civil Society Facility and European Endowment for Democracy instruments.

Sida's experience with civil society

The Swedish development cooperation agency has developed a specific strategy formulating the *grounds for*, the *objective of* and the *modalities for* Sida's cooperation with civil society, in line with Sida's overall development cooperation policy. The overall objective of Sida's support is the development of a vibrant and pluralistic civil society in developing countries that, using a rights-based approach, contributes effectively to reducing poverty in all its dimensions.

Sida can support civil society in four different ways.⁶² Sida provides:

- support to an organisation selected on the basis of its competence as an implementing agency (focus on the activities);
- support to an organisation with the aim of strengthening its capacity as a democratic actor in civil society (focus on the organisation and its development).
- support to organisations and networks to strengthen the role of civil society as an arena for citizens' engagement, and to promote transparency, cooperation and networking among organisations.
- support for the development of an enabling social environment to strengthen the structures that create conditions for civil society to take action, an indirect form of support (support to the participation of civil society in dialogue with the governments)

In total, around one third of Sida's assistance is provided to and through CSOs. Of this support, about one fourth is administered via framework agreements, with 15 Swedish CSOs working in cooperation with CSOs in developing countries. Sida also directly supports CSOs in partner countries.

Sida's approach is of interest for the following reasons:

- It promotes a **broad approach** of civil society, encompassing formal and informal groups; this approach allows to take into account traditional and non-traditional organisations through diverse support modalities and funding mechanisms;
- Support to civil society is designed based upon a **contextual analysis** which aims at providing a clear picture of the civil society's structures, values, impact and environment in a given country.
- Sida pays specific attention to the potential of CSOs to act as **proposers of ideas** and watchdogs of those in power.
- **Indirect support provided through CSOs** is also an interesting model that the EU could use in the neighbourhood to develop links between EU and partner countries' CSOs.

AFD's experience with civil society

Support to civil society and to democratic governance are major components of the French development cooperation. The Agence française de développement (AFD) provides:

⁶² Sida's support to civil society, 2007, <http://www.sida.se/Documents/Import/pdf/Sidas-support-to-civil-society.pdf>

- Support for CSOs' involvement in debates on cooperation and development policy dialogue,
- Supports the construction of public spaces for dialogue and capacity-building for local authorities and civil society,
- Subsidies for international development initiatives of CSOs, channelled through domestic CSOs

The bulk of French CSOs is grouped together within Coordination Sud (CSUD), a national platform for international solidarity organisations funded by the French Ministry of Foreign Affairs. Its main objectives are to:

- Strengthen the professionalism of CSOs in South and North
- Advocate for CSOs as essential actors in development cooperation and humanitarian aid policies
- Support the elaboration of shared positions in international solidarity issue

Like Sida, AFD provides an interesting illustration **of indirect support provided through CSOs** which allows for **long-term partnerships between EU and non-EU organisations**.

AFD also provides an interesting model when it comes to **facilitating CSO's access to funding**. The Agency has developed **a set of guidelines and templates** to help them apply under calls for proposals.⁶³ This could serve as an example for the EU, since the current version of the Practical Guide does not pay specific attention to problems encountered by CSOs applying for EU funding.

4.2.5 Proposals for improvements to proposed legal texts

Based upon the above analysis, we suggest the following proposals for improvement to the overall EU procedures to CSOs and the proposed Regulations. All of them aim at strengthening CSO's involvement in EU-partner countries relations and at tailoring better EU procedures to CSO's needs.

Draft ENI Regulation

Partnership with societies (articles 2.3 and 4 draft ENI Regulation)

- Recital (5)

*5) Under the European Neighbourhood Policy, the Union offers **the authorities and societies** of Neighbourhood countries a privileged relationship, building upon a mutual commitment to and promotion of the values of democracy and human rights, the rule of law.*

- Article 2.3

*...The indicators will include, among others, adequately monitored democratic elections, level of corruption, trade flows, **level of involvement of the civil society into the policy process (policy formulation, implementation and monitoring)**, indicators enabling measuring internal economic disparities, including employment levels.*

- Article 4.1 Differentiation

*Union support provided under this Regulation to each partner country shall be differentiated in form and amounts according to the commitment to reforms **of the partner country's authorities** and **the progress in the implementation of** these reforms. Such differentiation shall reflect the level of ambition of the country's partnership with the Union, its progress in building deep and sustainable democracy **including***

⁶³ <http://www.afd.fr/home/AFD/nospartenaires/ONG/solliciter-une-subvention/Guides-methodologiques-demande-de-financement>

the support and involvement of the civil society and non-state actors into the policy process, its progress in implementing agreed reform objectives, the country's needs and capacities, and the potential impact of Union support. In case you would agree with the idea I presented above.

– Article 4.3 Partnership

Union support under this Regulation shall, in principle, be established in partnership with the beneficiaries. The partnership shall involve ~~as appropriate~~, national, regional and local authorities, other stakeholders, civil society, social partners and other non-state actors in preparing, implementing and monitoring Union support. **The involvement of civil society, social partners and other non-state actors shall be systematic at each phase of the design and monitoring of Union support. Such involvement will be ensured by Union delegations in the field, using tripartite dialogue with partner countries' governments or bilateral consultations with CSOs as appropriate. A consultation with CSOs shall be undertaken before any programming document is drafted and before it is finalised. CSO representatives shall be associated to the formulation of EU projects and other types of support. CSOs representatives shall take part in tenders' evaluation committees and in project evaluations. For these purposes, CSOs shall be selected using transparent criteria.**

Co-financing (article 4.3. draft ENI Regulation)

Union support under this Regulation shall in principle be co-financed by the partner countries through public funds, contributions from the beneficiaries or other sources. The same principle shall be applicable to the cooperation with the Russian Federation, particularly with regard to programmes referred to in Article 6(1) (c). Co-financing requirements **shall be waived as often as possible** to support the development of civil society and non-state actors, without prejudice to compliance with the other conditions set out in the Financial Regulation. **Co-financing requirements shall be waived systematically for small-scale CSOs.**

Conditionality

Country allocation (article 7(5))

Financial allocations for country and multi-country programmes shall be determined using transparent and objective criteria reflecting the differentiation principle referred to in Article 4(1). **"The financial allocations can be reallocated during the implementation phase on the basis of non-compliance with the indicators stated in Article 2 (3); the recipients of reallocated funds shall be determined by the Commission and shall include non-state actor and civil society organisations."**

Additional provisions currently not included in the draft ENI Regulation

Partnership with civil society, conditionality and budget support

- To ensure an effective partnership with societies, the European Parliament should ask that a clear connection be made **between the delivery of budget support and the involvement of CSOs in the policy process. Article 4.1.** should include the following statement: *"The effective involvement of civil society organisations shall be considered as a key criterion in the delivery of EU budget support in partner countries"*.

Civil Society Facility

- While it should contribute to raise the EU's profile among civil societies in the neighbourhood, the Civil Society Facility is absent from the ENI Regulation. The European Parliament should ensure **its formal inclusion in the Regulation (under article 7) and make sure that calls under the CSF are clearly distinct from calls for proposals under other EU instruments.**

Draft regulation on common rules for the implementation of the Union's instruments for external action

Flat rates and lump sums (article 4.4)

*The types of financing referred to in paragraph 1 and in Article 6(1), and the methods of implementation referred to in paragraph 3, shall be chosen on the basis of their ability to achieve the specific objectives of the actions, taking into account, inter alia, the costs of controls, the administrative burden, and the expected risk of noncompliance. For grants, this shall include a consideration of the use of lump sums, flat rates and scales of unit costs. **Grant applicants shall select between actual budget costs or lump sums, flat rates and scales of unit costs.***

Funding mechanisms and provisions to be included in the revised Financial Regulation

Specific funding schemes

- The European Parliament should include **specific funding schemes for individuals and/or non-registered groups**. This would be both a flexible tool and a leverage vis-à-vis neighbouring countries in which CSOs face difficulties to register and/or to get funded from abroad.

Sub-granting

- The European Parliament should request additional possibilities for **enlarging the scope of sub-granting** and for increased **sub-granting mechanisms**, thus allowing for a broader support and multiplying small grants.
- At the same time, the European Parliament should ensure that the initial grant received from the EU **is not considered as an income by partner governments**, which is currently the case in some partner countries (e.g. Armenia).

Taxes

- Under the ENPI, taxes are eligible costs provided CSOs can prove that they cannot get exemption from the national tax authorities. However, this is not the case under the EIDHR. As pointed out by CONCORD,⁶⁴ with the revision of the Practical Guide in November 2010, EuropeAid introduced budget and financial reporting formats that require grant applicants to separate out taxes so that under the EIDHR they are charged to the CSO contribution to the budget (as 'accepted but ineligible costs'). For further coherence and in line with CONCORD recommendation, it is proposed that **taxes become eligible costs** under all funding instruments.
- **The VAT** issue has been raised by most CSOs in the neighbourhood, including during the last EaP CSF meeting in Poznan. In Armenia, for instance, CSOs pay taxes first from EU funding and they get reimbursed after sending a specific request to tax authorities (to a special commission). This procedure gives a lot of opportunities for corruption or in fact for not getting money back. Based upon the practices of other donors (e.g. USAID), the European Parliament should ask for the systematic conclusion of specific agreements between the EU and partner governments **exempting from VAT** all grant recipients and all transactions under EU-funded projects.

⁶⁴ CONCORD. *Contribution to the Review of the Financial Regulation. The External Aid Perspective*, 3 February 2011.

EU relations with civil society: ensuring that practices evolve

Turning CSOs into real ENP partners and partners for reform

- **In the Calls for proposals, put the emphasis on CSOs potential to provide strategic input/recommendations.** Currently, CSOs are mainly considered as service providers under the Calls for proposals, or in the best cases as watchdogs. Their potential for strategic thinking as well as their governance-related roles are not emphasised. This should be taken into account in the forthcoming EC communication on CSOs in development.⁶⁵ This could also be changed by reviewing the evaluation criteria under the Calls for Proposals.
- The EU should **clarify the concept of non-state actors.** Whether the current definition includes local authorities or not is unclear to a number of CSOs. In particular, CSOs representatives find it confusing that local authorities/governments are eligible under specific NSA funding schemes. We recommend to have distinct Calls for Proposals.
- The EU should set up a Working Group tasked with identifying best practices for improving access to EU funding for non-traditional CSOs (e.g. through Open Door schemes; proxy funding; virtual projects; etc). The Working Group should include national foundations and small-scale donors from the neighbourhood area.

Practical Guide and Handbook

- In its current version, the EC's Practical Guide is not CSO-friendly and does not pay specific attention to problems encountered by CSOs applying for EU funding. **A working group should be set up to revise the practical guide and suggest concrete changes and recommendations with a view to facilitating access to EU funding for civil society.** This working group should necessarily include CSOs representatives and other donors.
- An alternative (or a complement) is to draft a specific Handbook for EU officials (both at Headquarters and in Delegations) for interacting with civil society and ensuring its involvement in both EU policy and assistance.

GoNGOs

- In order to address the **GoNGO issue**, the EU **should explore lines on which CSOs may be classified.** On the basis of this classification specific schemes should target each CSO segment with adapted tools. To explore these lines, the EP should set up a working group reflecting on the GoNGO issue and proposing classification criteria in the Eastern and the Southern neighbourhood. These criteria would guide EU/EEAS officials in interacting with civil society.

Flexibility in the use of current mechanisms

- The European Parliament should ask the EC and Delegations to make full use of existing provisions already allowing for a **more differentiated approach between CSOs.**

⁶⁵ The EC launched a consultation process in March 2012 to prepare this communication.

List of abbreviations

AA	Association Agreement
AAP	Annual Action Programme
CSF	Civil Society Facility
CBO	Community-Based Organisation
CSO	Civil Society Organisation
CSP	Country Strategy Paper
EC	European Commission
EaP	Eastern Partnership
EaP CSF	Eastern Partnership Civil Society Forum
EEAS	European External Action Service
EED	European Endowment for Democracy
EIDHR	European Instrument for Democracy and Human Rights
ENI	European Neighbourhood Instrument
ENP	European Neighbourhood Policy
ENP AP	European Neighbourhood Policy Action Plan
ENPI	European Neighbourhood and Partnership Instrument
GoNGO	Government-organised NGO
MENA	Middle East and North Africa
NIP	National Indicative Programme
NSA	Non-State Actors

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