

Mechanisms of Civil Society Involvement into Programming, Implementation and Monitoring of the EU Aid Programs in Ukraine

Lyubov Palyvoda

PhD in Public Administration

27 Kikvidze St., Apt.7

Kyiv 01103 Ukraine

e-mail: palyvoda@voliacable.com, palyvoda@ccc.kiev.ua

Workshop on the Third Sector at the conference of the European Group of Public Administration (EGPA), 19-22 September 2007 in Madrid.

Abbreviation and Definitions

CCC	Counterpart Creative Center
CEE	Central and Eastern Europe
CIDA	Canadian International Development Agency
CIVICUS	World Alliance for Citizen Participation
CSI	Civil Society Index
CSO	Civil Society Organization
DFID	Department for International Development (UK)
EC	European Commission
ENP	European Neighborhood Policy
ENPI	European Neighborhood Policy Instrument
EU	European Union
GNP	Gross National Product
GONGO	Government Organized nongovernmental organization
NGO	Nongovernmental Organization
OP	Operational Programm
SCSCG	Standing Civil Society Consultative Group
SPD	Single Programming Document
STE	Short term expert
SWA	Sector Wide Approach
SWAP	Sector Wide Approach Project
UNDP	United Nation Development Program
USAID	United States Agency for International Development

The term “*nongovernmental organization*” refers to organizations that are officially established and registered, separated from the state, self-governed, and which do not distribute profit to stakeholders.

The term “*third sector*” covers formally registered organizations as well as informal grassroots and community groups. All of them are based “on a set of relatively clear conceptual distinctions in relation to government agencies and for-profit business” (Lewis 2001).

“*Civil society*” is usually taken to mean a realm or sphere of institutions, organizations, networks and individuals (and their values) located between the confines of the family, the state and the market, which is bound by a set of shared civic rules, and in which people associate voluntarily to advance common interests (CIVICUS 2001). Civil society organizations include associations, movements, networks, citizens’ groups, consumer organizations, small business associations, women’s groups and NGOs.

EXECUTIVE SUMMARY

The process of democratizations does not always move in a single direction. Countries move toward democracy in starts and stops. The literature indicates that there are four distinct stages that a country goes through on the path to becoming a stable democracy. These four stages of societal development can be labeled pretransition, transition, consolidation and stable. The pretransition stage focuses on societal conditions under the old regime, while the transitional stage is that historical moment when the previous regime no longer holds political power. A state becomes consolidated when the ideas of democracy are accepted and adhered to, and is then considered stable when democracy functions over a period of time.

A diverse and growing body of writing on the role of nongovernmental (NGO) and civil society (CSO) organizations in democratic development exists and has proliferated over the last years. For many countries in transition it is very important to understand NGOs' and CSOs' roles and involvement in the democratization processes. NGOs, as a large part of civil society organizations, are thought to play different roles at different stages of the democratization processes, and most political analysts distinguish between democratic transition and democratic consolidation (Diamond 1994; Diamond *et al.*, 1995, 1997). It is thought that in democratic transitions, NGOs and CSOs play a major role in mobilizing pressure for political change, while their key role in the consolidation of democracy is considered to be checking the abuses of state power, preventing the resumption of power by authoritarian governments and encouraging wider citizen participation and public scrutiny of the state. As Diamond (1994) mentioned - "a vibrant civil society is probably more essential for consolidating and maintaining democracy than for initiating it."

Ukraine is in the process of moving to the consolidation stage of democratization. A vibrant civil society with an active and engaged citizenry is the bedrock for healthy societal and economic development as well as long-term sustainability. CSOs, when involved in the policy making processes can provide valuable support for a democratic system and can help win public acceptance for needed changes. Ukraine expresses its desire to become a part of the enlarged Europe and to respect the principles of liberty, democracy, the rule of law, and human rights and fundamental freedoms. In turn, the EU proposed its support through democracy assistance programs. However, "International assistance to democratization can only have limited impact unless there is a genuine political will and a strong commitment to democracy within the country's ruling elite and society at large" (Santino 2001).

The process of external aid coordination is a broad participatory process based on the commitment of all stakeholders. Civil society plays a vital role in this process, especially in planning and implementing the EU strategies and programs by defining country priorities and in planning assistance. In early 2004, the EC organized a consultation procedure that allowed civil society to formulate some comments or recommendations on the revision of the TACIS program, which was in the process of being adapted to the new Neighbourhood Policy (ENP) framework and relevant in the case of Ukraine ENP instruments (ENPI). It is important to ensure the ownership of the program by partner countries and national actors, including civil society organizations that are indeed a key to successful implementation.

The general purpose of this paper is to promote involving civil society organizations in the development of the EU aid programme by Government and implementation of EU assistance through the Sector Wide Approach (SWA) and use of the European Neighborhood Policy Instrument (ENPI). The specific objectives are i) to review existing and possible models of CSOs involvement into external aid programming; ii) to review relevant mechanisms for civil society consultation implemented in Central and Eastern European countries; iii) to review relevant mechanisms for civil society consultation implemented by the Ukrainian government; and iv) to elaborate recommendations on the improvement of the processes and mechanisms of civil society involvement into the planning process of the EU technical assistance in Ukraine in view of the introduction in 2007 of the European Neighbourhood Policy Instrument as well as of the implementation of the SWAP.

The paper begins with the discussion of the need for civil society participation and description of civil society concepts used by the EU and other research entities. Besides a description of the current stage and dynamics of civil society development in Ukraine, the paper presents an analysis of strengths and weaknesses of Ukrainian CSOs. Furthermore, review of existing and possible models of CSOs involvement into external aid programming includes analysis of mechanisms for civil society consultation implemented by other donors in Ukraine, review of relevant mechanisms implemented by the Ukrainian

government as well as in other Central and Eastern European countries. In the end, the paper proposes recommendations to the EC and Ukrainian government on the practical implementation of models for civil society involvement into external aid programming in the context of ENP at two levels: policy and operational.

Policy level recommendations to the EC include the EU catalyst's role of making the Ukrainian government work more closely with civil society actors by involving them from the beginning in agenda setting and policy definition and not only for validation. At the same time, the EC Delegation should establish mechanisms for information sharing with civil society on practical issues such as programming, calls, reporting and their implications. Civil society should be involved in the impact evaluations that precede new EC programming and the European Commission must make more use of local experts in impact evaluations as well as in the evaluation of project proposals. In addition, the EC Delegation in Ukraine must create greater flexibility within the present EC financial architecture to allow access to funding by Ukrainian small CSOs.

On the other hand, policy recommendations to the Ukrainian government propose that the government recognize CSOs as full partners and extend an open door policy to CSOs in EU fund design and planning. Publish a consultation plan and timetable, with clearly outlined, distinct stages. Ensure there is plenty of time for each stage: beginning, middle, end. Share plans and draft documents at the earliest possible stage. Make new versions available promptly. Provide technical assistance for CSOs engaging in consultation. Use working groups for specific themes and involve CSOs in them. Involve CSOs working in different regions and with the most excluded parts of population. Use several forms of media to spread knowledge about the consultation: websites, paper publications, press, CD-ROM. Report on the consultation process afterwards - who was consulted, how, what was said, how comments have been incorporated - and if not, why not, and how the plans were modified as a result.

At the operational level the EC needs to support the capacity building of Ukrainian CSOs for partnership by using domestic and technical assistance resources; draft guidelines for civil society participation; support CSOs in a design of Position papers; encourage participation of CSO representatives in programming, implementation and monitoring of EU aid assistance; as well as monitor partnerships between government and civil society.

As for the Ukrainian government, it should develop clear, binding and enforceable rules and regulations for partnerships with civil society on EU programming, implementation and monitoring; strengthen the legal framework of civil society participation; create partnership with civil society organizations in project development and implementation; and involve civil society organisations to making decision on financing, monitoring and evaluation of EU assistance.

At the same time, the paper proposes several general remarks on working with civil society organizations as well as specific recommendations that include the following. First, to renew work of the Standing Civil Society Consultative Group. Second, to conduct informational sessions and seminars with wider stakeholders in civil society at national and regional levels on EU aid programming, implementation and monitoring. Finally, to assist CSOs in prioritising their efforts as well as to assist CSOs in staying focused on defined priorities.

In addition, samples of specific projects that might be supported by the EU and Ukrainian government are proposed. It is important to remember that CSOs not only guard democracy, but are flexible to play different roles in the democratization processes: from making pressure for changes to encouraging citizen participation and consolidation, from "supply side" to "demand side", from needs articulation to fighting poverty. As Lewis (2001) argues, "the CSO phenomenon cannot be discussed adequately without reference to the flow of development assistance and the organizations and institutions which sustain the aid system."

Most donor agencies see CSOs as important actors in the democracy transformation process, and seem to want from CSOs "effective service delivery, the rapid disbursement and utilization of project funds, an assurance that funds will be handled and spent honestly, a sense of 'ownership' of intervention fostered among beneficiaries which will lead to sustainability, and finally an increased role for NGOs in service delivery as part of the desired privatization of the state" (Carroll 1992). At the same time, CSOs provide both donors and government with mechanisms that assist them in absorbing available external funding. In

order to increase CSO absorption capacity, donors and government not only allow CSOs to influence donor projects and makes them more appropriate for local needs, but by acting together, CSOs enable donors and government to achieve more with limited resources.

CHAPTER 1.

NEED FOR CIVIL SOCIETY PARTICIPATION

The European Union is founded on the principles of liberty, democracy, rule of law, and the respect for human rights and fundamental freedoms. One of these fundamental rights is the right of citizens to form associations, to pursue a common purpose and to participate actively in society. A vibrant civil society with an active and engaged citizenry is the bedrock for a healthy society, economic development and long-term sustainability. Nongovernmental organizations (NGOs), being an active part of civil society, are therefore an important part of the EU and when involved in the policy making processes can provide valuable support for a democratic system. The European Commission acknowledges that: “NGOs can make an important contribution to the development of democracy and the development of a civil society”. The EC believes that NGO involvement in policy shaping and policy implementation can help to win public acceptance for the EU.

The process of external aid coordination is a broad participatory process based on the commitment of all stakeholders. Civil society plays a vital role in this process, especially in planning and implementing the EU strategies and programs by defining country priorities and in planning assistance. In early 2004, the EC organized a consultation procedure that allowed the civil society to formulate some comments or recommendations on the revision of the TACIS program, which was in the process of being adapted to the new Neighbourhood Policy (ENP) framework and relevant in the case of Ukraine ENP instruments (ENPI). It was important to ensure the ownership of the program by partner countries and national actors, including civil society organizations that are indeed a key to a successful implementation.

The main aims of involving civil society in defining country priorities, program planning, implementation, and monitoring are:

- ❑ To support policy formulation and implementation through practical advice
- ❑ To ensure an effective two-way information flow between people and government;
- ❑ To stimulate networking among civil society organisations;
- ❑ To strengthen the legitimacy and accountability of state governance;
- ❑ To provide a voice for those affected by public policies and might otherwise not be sufficiently heard through other channels;
- ❑ To reach the most disadvantaged at grass-root levels;
- ❑ To use civil society organizations (CSOs) expertise and, in many cases, direct experience from the field to make a meaningful input into the policy development debate;
- ❑ To use CSOs’ valuable support in promoting the values of citizenship, good governance, human rights, gender equality and participative democracy in society and in stressing the importance of a democratic system based on transparency, accountability, effectiveness and responsiveness;
- ❑ To promote integration due to the fact that CSOs are in a position to foster trans-border co-operation and exchange among people who have grown up under different political systems and economic conditions;
- ❑ To strengthen relations between the state and civil society.

At the same time:

- ❑ *CSOs are important as independent advocates for social change and people’s wellbeing – as voices for a longterm perspective against an elected politician pushing for short-term, and often shortsighted, interests with the purpose to be re-elected.*
- ❑ *CSOs are an important source of ideas, know how and expertise.*
- ❑ *CSOs are an important source of practical support.*
- ❑ *CSOs are the leading force for sustainable development, providing longterm vision, know-how, access to foreign funding, and the capacity to really make a difference.*

In the end, it is important to mention that the role played by Ukrainian civil society organizations are familiar to those in existing EU member states or in North America. The difference lies in the deeper social transformation that is taking place in Ukraine. While in Western countries the activity of CSOs supports and exercises with largely preexisting civil rights and control mechanisms, in Ukraine CSOs are *creating* them. It has been more than a decade since Ukraine acquired its independence, but society continues to be fragile, open to manipulation, lacking sturdy control mechanisms, and still very much struggling to establish a functioning civil society.

CHAPTER 2.

ASSESSMENT OF CIVIL SOCIETY LANDSCAPE

This chapter starts with a description of the concept of civil society used by the European Commission and in recent international and Ukrainian research. Furthermore, it presents the current stage and dynamics of civil society organization development in Ukraine. In addition, the strengths and weaknesses of Ukrainian civil society are additionally analysed.

Concept of civil society

There is no commonly accepted definition of the concept of civil society. The EC has often used the term to refer to a broad range of organisations representing both social and economic players. The most often used definition is the following: “civil society is the associational life operating in the space between the state and market, including individual participation, and the activities of non-governmental, voluntary and community organisations”. It is important to note that it also covers those individual citizens who clearly make a significant commitment or contribution to society in a particular field.

Civil society as a concept remains unclear in mainstream Ukrainian discourse, which lacks uniformity on what is civil society: Is it a moral feature or is it part of governance or third sector and its organisations. However, civil society is becoming a popular concept among academia, donors, government and mass media, as the country is implementing democratic reforms and their connected rhetoric. Terms such as ‘civil society organisations’, ‘nongovernmental organisations’ and ‘nonprofit organisations’ are used interchangeably in official publications and in media outlets.

NGOs are best understood as self-governing, private, not-for-profit organizations that are geared to improving the quality of life for disadvantaged people (Vakil 1997 in Lewis pp.36-38). They are the broad range of institutions that operate outside the confines of the market and the state, and that are known as the “third sector,” “civil society,” “charity,” “nonprofit,” and “voluntary” organizations. Despite great diversity in their activities and aims, they share the following common features (Salamon et al 2003). They are:

- *Organizations, i.e.*, they have an institutional presence and structure;
- *Private, i.e.*, they are institutionally separate from the state;
- *Not for the distribution of profit, i.e.*, they do not return profits to their founders or members;
- *Self-governing, i.e.*, they are in control of their own affairs;
- *Voluntary, i.e.*, they attract some level of voluntary contribution of time or money.

There are two main laws that regulate the registration and activity of NGOs in Ukraine. They are the Law of Ukraine “On Unions of Citizens” and the Law of Ukraine “On Charity and Charity Organizations.” The law defines *union of citizens* as a voluntary public-based association created on the basis of shared interests for the citizens’ joint realization of their rights and freedoms; and *charity organization or foundation* as a nongovernmental organization whose main goal is to conduct charitable activity in the interests of the society or individuals.

The third sector includes both types of organizations, charities and NGOs, and could be used interchangeably with the term “NGO sector.” The term *civil society organization* refers to collective and organized forms of civil society and may include organizations other than those in the third sector organizations.

Nevertheless, the terminology is not clear for general public, which is more used to such terms as charity, charitable organisations and citizens' associations. The prevailing notion among researchers is that civil society is not institutional phenomena but rather societal phenomena. Civil society is considered to be a quality of society, which determines its self-organising capacity, the level of democracy, realization of citizen rights and freedoms, citizens' values and their responsibility. In this capacity civil society cannot be uncivil society and cannot be built. Civil society analysis should be along its time and space characteristics, indicators of the level of participation, level of assuring citizen rights and freedoms, responsiveness to societal interests (Kresina, 2006).

The majority of research projects on and donors' assessments of civil society in Ukraine are descriptive in nature. They often operate with the numeric data, their analyses are based on perceptions rather than facts, and often research limit themselves to one specific organisational form of civil society organisations – non-governmental organisations that include public associations and charitable organisations. However, the CIVICUS Civil Society Index (CSI) project that was implemented in Ukraine in 2001-2002 and 2003-2005 provided specific research that sought to examine to what extent Ukrainian civil society has changed over the last years. Political changes in recent years have influenced the nature of civil society and public participation. Increased activity of civil society was generated by initiative groups, movements and citizens. The most illustrative example of the spontaneous and non-registered civil society and its impact is provided by the Orange Revolution and events that followed Presidential elections of 2004.

Overview of civil society in Ukraine

The development of civil society was shaped by years of struggle for national liberation and an independent state in Ukraine. In the Middle Ages, charity and social service provision were in the hands of the church and were later taken over by the state, when the church became involved in religious battles. Due to the lack of a permanent system of social service predominantly rural communities formed systems of reciprocal selfsupport that never required organised structures.

Beginning in the 17th century, when Ukraine was divided between Poland and Russia, the educated strata formed a national liberation movement under the mask of charity. It was the time of secret societies, which studied Ukrainian history and developed strategies of political liberation while also promoting Ukrainian language and culture. The time during the late 19th and early 20th centuries was known for the emergence of private philanthropy by industrialists who helped establish a system of social support for the needy, as well as in the fields of education, health protection and culture. Some philanthropists also supported the Ukrainian liberation movement, which continued its activities until the Soviet era.

During the Soviet era, public participation and social service provision was strictly controlled by the state, which eventually led to the formation of the partisan wave for independence and national liberation in the 1960s. This wave delivered a tremendous movement for Ukrainian independence that created a background for the emergence of a Ukrainian State on the world map in 1991. NGOs and public movements, which appeared during the Soviet Union's *Perestroika* in the late 1980s, provided cadre for the majority of political parties and government agencies.

The appearance of a new generation of NGOs, that were characterised by a Western system of management and a project based approach to activities, was stimulated by Western aid received in Ukraine since 1993. Meanwhile, many old Soviet style CSOs and newly born charitable foundations, trade unions, associations and political parties were beginning to adapt to the new context by changing their governance, which was precipitated by a sudden disappearance of state funding. Interestingly, the old Soviet CSOs were better equipped from the outset. They possessed significant property, a wide network of members and government officials were lobbying for their interests. While CSOs organisational capacities were developing, public participation and the number of CSOs gradually decreased in late 1990s, as compared to the early 1990s. This may be explained by the economic and social crisis, but the major problem was that after accomplishing their task of building an independent state, CSOs could not transform their missions in to the requirements posed by the new regime, including service provision and the protection of citizens' individual interests (Kuts, 2000).

However, in the early 2000s the people's protest movement rose up against a regime that began to acquire totalitarian features. Ukrainian CSOs acquired important experience in building coalitions among voters during the 2002 parliamentary elections, which matured during the 2004 Presidential elections. Their aim was to counteract the authorities' massive intervention at all levels in support of the candidates of the governing party. Eventually, the efforts of a coalition among several CSOs received support from the wider public, which led to widespread protest actions called the Orange Revolution. This is the most visible example of civil society's impact on public policy, which led to the change of government and a return to a democratic course.

The CIVICUS definition of civil society – *“Civil society is the arena between family, government, and market where people voluntary associate to advance common interests”* - includes a very broad scope of organizations, encompassing 'positive' and 'negative' organisations as well as informal forms of citizen participation.

Ukrainian civil society is not a powerful agent in the overall picture of social forces due to the financial dependency on domestic and international donors. This creates competition for resources, which in turn, prevents joint action and higher influence. This dependency is used by donors, mostly local, for manipulating civil society activities by giving money, usually in cash, to set up short-lived NGOs that support the government.

Ukrainian CSOs are divided into three groups, according to their sphere of activity. The first group consists of organizations that are public oriented and inspired by government policy and encouraged by availability of government funding. They are often politically oriented and pursue their vision of better governance. This group also includes private philanthropists who aim to create a positive image for themselves and gain access to politics via giving. The second group includes CSOs that are member-oriented, that pursue the interests of their members by protecting their interests and providing services exclusively to members. The final group brings together CSOs that orient their missions according to donors' strategies. This group includes political parties funded by oligarchs, government organised nongovernmental organisations (GONGOs), international NGOs (INGOS) that work as regranting agencies as well as Ukrainian NGOs.

There are also informal CSOs, which have often been created by the impulse to socialise or solve community problems. Usually these organisations do not require a formal structure. These groups never mix, so there are only umbrella structures within each of these groups. The most illustrative examples are represented by women umbrella CSOs: Zhinocha Hromada is public oriented, The International Business Women League is members oriented and the Women Consortium is donor oriented. Such divisions can be found in almost all fields of civil society activity.

There is a significant division within civil society that negatively impacts the solidarity of the sector and its common voice. This division reflects the orientation of CSOs towards sources of funding, which mostly cannot be obtained via transparent competitive process. This therefore breeds mistrust within the sector.

The Orange Revolution of 2004 demonstrated an unprecedented level of civic activism in Ukraine, and the CSO played a vital role in promoting and organizing those who participated. Over the past years civil society continues to make tremendous progress and has demonstrated an increasingly sophisticated understanding of advocacy.

CSO legal environment

The legal environment for civil society organizations did not improve over the past years. The government's willingness to cooperate with civil society as well as other positive political developments was offset by legislative reforms concerning taxation and social services, and the government's failure to understand the needs of CSOs. Several laws, such as the Law on Public Associations, are inconsistent with the new Civil Code, causing confusion and making it more difficult to implement the new rules.

Though considered progressive, the 2004 Law on Registration of Legal Entities has created many issues for new NGOs. Specifically, the law requires that all CSOs register with the Ministry of Justice and the regional authorities. A system in which CSOs only register with one government institution is not yet in place. Despite these difficulties, registration time for associations is now down to one month for national and international organizations, and four days for local organizations. These improvements are largely the

result of CSO advocacy efforts. The government has restored all tax benefits and incentives, and tax authorities have allowed corporations to deduct between 2-5% of their taxable income for donations to CSOs.

Though regulations for generating income remain unchanged, officials involved in local tax and registration continue to limit the ability for CSOs to engage in economic activities. Regulations on social services remain unimproved; those that govern CSO service delivery have become more restrictive. Government funding for procurement of social services and grant programs has yet to be implemented. Local funding for services, however, has diversified and organizations have generated more income by improving their marketing strategies.

CSO organizational capacity

In terms of organizational capacity, a sustainable civil society has to contain a critical mass of CSOs that are transparently governed and publicly accountable, capably managed, and exhibit essential organizational skills. Most CSOs in Ukraine have a clearly defined mission; the strategic plans exist but are rarely practiced. Planning is usually more reactive than strategic. CSOs plan as they learn about available resources. Over the past years, there have been improvements in the internal management structures of CSOs. CSO governance has improved, indicating a change of attitude within the sector.

Organizations are generally more professional than they have been in the past. More CSOs now have small professional staffs and volunteer management capacities. Although highly centralized and personalized leadership structures remain and a division of responsibilities between the board of directors and staff members are not regularly practiced, increased numbers of professional CSOs supply the civil society with a professional cadre of local experts, consultants and trainers capable of providing high quality training and technical support. Following the 2004 and 2006 elections, many of the most active CSO members and supporters took positions with political parties or in the government, and continue to support civil society organizations. While this has had a positive impact on CSO relationships with government officials, the loss of qualified professionals that moved to work either for government at different levels or businesses has had a negative impact on CSO human resources. New employees lack experience and organizations are working to strengthen their capacity.

Counterpart Creative Center CSO organizational capacity study suggests that in general CSOs capacity for organizational development is somewhat higher than moderate and in general CSOs do have some performance standards on organizational systems.

CSO financial viability

During the Orange Revolution citizens supported NGOs with money, goods, and time; local businesses' and governments' support of CSO activities increased as well. Local businesses sometimes seek out CSOs for their services and expertise, and domestic philanthropy has brought in several hundred million dollars of support. In 2005, the National Tax Administration reported that the total of local donations to charitable foundations and associations was approximately \$576 million. Civil Society Institute, however, reports that this figure does not account for volunteer contributions, in-kind donations, or the income from subsidiary organizations. They estimate that local support for CSOs could possibly be as much as \$1 billion (0.3% of the Ukrainian GNP).

CSOs have succeeded in diversifying its funding. However, financial oversight is informal and conducted by CSO leaders. CSOs only conduct audits as required by donors or tax officials. CSOs seldom make their financial statements public, even to their members. Numerous organizations create subsidiary businesses that charge for their services and donate the profits to the organization. Such practices are legal and simplify the organization's reporting and financial management requirements. Only a few organizations offer grants from domestic funding. CSO grants are more likely to come from the international donor community.

CSO advocacy activity

Despite numerous initiatives and coalition building during and after the Orange Revolution, the CSO advocacy efforts are still weak. In 2005, the President of Ukraine initiated efforts to ensure systemic participation in policy-making, however mid-level government administrators lack both the capacity and will to implement the President's ideas, therefore no real changes have occurred. Central and local

governments organized public hearings, roundtables and meetings with CSOs and political parties to discuss draft laws and regulations, though in general, cooperation is generally unstructured and fragmented. Organizations are increasingly able to collaborate with the national and local governments. Organizations are identifying government agencies relevant to their interests. The more developed organizations are capable of identifying key decision makers and have strong relations with deputies in Parliament. More organizations are making formal requests for information and appeals to government and lawmakers.

Numerous organizations have lobbied for legal reform at the local, regional, and national levels. The results of those efforts include tax exemptions for donations to CSO activities, handicap access to national parks, efforts to end government corruption with regards to the development of public land, and CSO-led arbitration and justice programs in the courts. Despite improvements, CSOs often do not solicit public input on issues they are addressing, taking for granted the necessity of their activities. NGOs need assistance in understanding the larger strategy of advocacy and the development of their activities. Many organizations continue to develop inadequate advocacy campaigns.

CSO service provision activity

CSOs provide a wide range of services including training, a variety of consultations, legal support, advocacy, information and research, policy analysis, publications and public education. Some services such as legal advices, information or newsletters are offered pro bono, while others such as training or selected publications are offered for a fee. The recipients of services are often CSO members, youth, children, pensioners, and the disabled. Organizations advertise their services to the general public, media, and local governments about their services. Social fairs often are held by CSOs in cooperation with the local governments.

However, there are legal obstacles that service providers face in registration and licensing procedures. The Law on Social Services went into effect in 2004 requiring that social services organizations be licensed, though the licensing procedures have not been created. Without guidelines, local governments are able to exclude any disfavored service provider from receiving contracts. In addition, CSO service providers may be subject to penalties for operating their businesses without the proper licensing. The procurement mechanism for accessing government funding has not achieved the level of transparency required by law.

CSO public image

CSOs have become more media savvy with many able to write their own press releases and secure media coverage for their activities. CSOs tend to be weak in establishing contacts with the media and creating new ways to reach their constituents. Mass media is not interested in detailed coverage of the civil society sector and rather focus on the sensational news. The press is more willing to cover CSOs providing results from exit polls than report on an organization's goals and activities.

While the CSO sector's public image is improving, organizations still have work to do, especially in the eastern and southern parts of the country. The 2004 Presidential election transformed Ukrainian civil society. According to the "Public Opinion in Ukraine after the Orange Revolution" survey conducted by the International Foundation for Election Systems (IFES), 62% of voters from the north, west and central regions are of the opinion that NGOs are necessary, while only 35% of voters in the eastern and southern voters agree.

Relations between CSOs and the business community have improved. Establishing communication and cooperation between government institutions and CSOs, however, is still largely left to CSOs. Though communication is better at the local level, it is difficult for CSOs to ensure collaboration with central government institutions. Generally, cooperation between CSOs and government agencies is a result of personal connections.

Strengths and weaknesses of Ukrainian civil society

While analyzing the current stage of CSO development, it is very important to specify its strengths and weaknesses with focus on later in more detail.

Strengths

Civil society in Ukraine has the following main strengths:

Informal citizen participation. Civil society's structure is characterised by rather high levels of non-partisan political action and volunteering. However, Ukrainians prefer giving and volunteering outside of organised structures. Membership in CSOs is very low (17%), while significant numbers of people participate in informal movements and meetings. Though citizen participation is not broad or formally well structured, it appears to have a certain depth and quality. Also volunteering for the public good is recognised as an important value by society.

Advocacy versus social service provision. Ukrainian CSOs are traditionally stronger in advocacy work than in social service provision. There is a significant growth in empowering citizens through civil society action, achieved through the increasing capacity to inform and educate citizens, building capacity for collective action, empowering marginalised people and building social capital. While the diverse and competitive political arena in Ukraine is supportive for CSOs pursuing the interests of people, it is quite difficult to develop policy related advocacy strategies in an environment where the government changes constantly.

Capacity of civil society. Civil society is a diverse arena, with almost all of the basic social strata being represented among civil society participants and leaders. Organisations are found in almost all corners of a country. Ukrainian CSOs have developed significant human capacity, professionalism and secured technological and infrastructural resources for their work. Civil society's infrastructure is growing: coalitions, umbrella bodies provide more and more high quality services to their members. The growing economy and the emergence of a middle class enhance civil society's development. CSOs strive to establish themselves on ideas and values that make them unique entities in the social landscape, such as tolerance, non-violence, gender equity and sustainable development.

Context opportunities. The legal environment for CSO activities and giving is favourable and compatible with international law. The Ukrainian government provides autonomy for civil society activities and the amount of government financial support of CSOs is growing. Corporate philanthropy is becoming a more common and acceptable activity, with many businesses declaring social responsibility as a principle for their activities.

Strong value commitments. Ukrainian CSOs generally follow a tolerant, gender equal, nonviolent mode of conduct. This is connected to the leading role of civil society in promoting tolerance, gender equity, non-violence and environmental protection, where it performs better than the state. Although actions of civil society in this field arose in response to negative events, it was civil society that prepared the ground for peace and tolerance during the conflict when there was a danger of moving towards a divided society during the 2004 election campaign.

CSOs and society at large. Civil society responds to societal problems better than the unresponsive government. CSOs are active in empowering marginalised people and empowering women, specifically on such issues as trafficking and family violence. The most powerful quality of Ukrainian civil society is in building social capital through horizontal networks of citizens, which are characterised by trust and spiritedness. The trust of CSOs is higher than trust of government and other institutions.

By enhancing positive aspects of civil society, Ukrainian CSOs can open new horizons and address aspects that are recognised as weak.

Weaknesses

Civil society's weaknesses are linked and referred to the specific concerns with the wider context and are as follows.

Citizens and CSOs.

The involvement of Ukrainian citizens in public affairs occurs mostly outside of formal structures of registered CSOs. While the number of registered CSOs has not grown since 2001 and membership has

remained almost the same, the levels of citizen participation in civic activities, has increased tremendously. High levels of volunteering, community work and informal action of citizens, testifies to the fact that CSOs often do not provide a platform for citizen participation and are not seen as attractive. There are a number of reasons for this, including:

- ❑ Despite a promising social and economic outlook, the majority of CSOs exist in miserable conditions. Most of organizations do not have office space or access to the Internet, they cannot afford to hire permanent staff and/or conduct long term programs. At the same time, lack of long term stability does not create conditions for the growth of professionalism in CSOs activity. Most CSOs are static and nonprogressive.
- ❑ CSOs prefer the voluntary work of committed people over providing employment opportunities for professional staff.
- ❑ Although law provides an opportunity for CSOs to attract resources from different sources, lack of entrepreneurship and creativity leads to a high dependency on international donors, especially well known national organizations. As for small CSOs, they usually depend on one source of funding with which they have personal relationships.
- ❑ Citizens' access to CSOs is poor, as many CSOs do not have offices and do not manage membership and clients bases.
- ❑ High competition for resources and a general societal context characterised by low level of rule of law, corruption, clientelism and shadow economy make CSOs less open to cooperation and they lack the basic elements of financial transparency.
- ❑ While higher than other institutions, public trust in CSOs is still low.
- ❑ Effectiveness of CSOs efforts to impact the wellbeing of society remains low.

Civil Society and State

There are a number of negative factors inhibiting a more effective relationship between CSOs and the state. These include:

- ❑ Before November 2004, CSOs existed in a political context that was characterised by strong government control over public life, widespread corruption, tycoons' clans in power, poor observance of rule of law, paternalism and clientelism in social structure.
- ❑ Government tried to manipulate the civic movement in its own interests by creating GONGOs and pocket NGOs. This legacy was inherited from the totalitarian regime.
- ❑ NGOs are limited in developing their economic capacity by the state policy that preserves the state monopoly with regards to welfare issues. Also, the government seems scared by any independent initiative and there is a lot of suspicion that business can hide under the mask of nonprofit agency to avoid tax payment.
- ❑ Civil society is still inactive in influencing budget policy. Ukrainian civil society is more active than successful in demanding accountability from the state and almost inactive when it comes to demanding the accountability of business.
- ❑ Though the data testifies that state funding of CSOs is growing, government prefers to use CSOs' resources, especially from international sources. It argues that wellresourced CSOs should help the government in solving social problems.
- ❑ In many aspects, government's neglect of CSOs is echoed by citizens' disrespect of CSOs. Absence of declared policy principles by the Ukrainian government, which focus on civil society's important role, contradicts European norms and standards, where CSOs are recognised partners of government.

Organizational capacity of civil society

The answer to the phenomena of low participation in CSOs lies in the limited capacity of CSOs to serve and reach as many people as possible. Thus, sustainability is a core problem for the sector.

- ❑ Approximately one quarter of CSOs has an annual budget of less than 5000 USD. Many organisations report insufficient resources to employ paid professionals and provide services to a wide audience of clients.
- ❑ CSOs' social service capacity depends on their resource mobilisation capacity, which is underdeveloped, professionalism both in service provision and organisational issues and support from the government.
- ❑ Cooperation among CSOs is often driven by fundraising purposes. Competition for the resources often undermines ethical standards.

- ❑ Lack of clear division between governance and management functions of the governing body and executive staff is a key problem of Ukrainian CSOs that prevents them from practising democratic governance. The internal governance deficit does not allow CSOs to become important players in the country's public arena since inner practices eventually impact their activities to pursue democracy in society at large.
- ❑ Financial sustainability of CSOs is intertwined with the principle of civic activism, while state funding undermines autonomy of organisations. Ukrainian businesses maintain an indifferent attitude towards CSOs, while establishing their own bodies to give to society mainly through charity.

CHAPTER 3.

REVIEW OF EXISTING AND POSSIBLE MODELS OF CSOS INVOLVEMENT INTO EXTERNAL AID PROGRAMMING

Mechanisms for civil society consultation implemented by other donors in Ukraine

Throughout the 1980s, donor agencies noted with growing enthusiasm the work of the first nongovernmental organizations. Nongovernmental organizations were described as important players in a country's overall development – more effective, less costly and more innovative than governments and more able to reach the poorest citizens. In the past decade, however, talk about the value of NGOs as a resource for foreign government interventions has broadened. Now the focus is on civil society organizations. The distinction between NGO and CSOs is important because the policy and power implications are different. Often, NGOs are described in service-delivery roles, whereas CSOs are depicted as political agents (Van Rooy 1998). For example:

USAID: "Civil society is defined as nonstate organizations that can (or have the potential to) champion democratic/governance reforms." (Hansen 1996)

UNDP: "We were receiving feedback that the term "NGO" was seen to mean "anti-government", whereas "civil society" was seen to be more neutral."

CIDA: "As new, non-NGOs arrive on CIDA's horizon, the term "civil society" has allowed the agency to encompass the new actors."

Robinson (1996) concluded: "The development emphasis on institution-building and participatory development focuses attention on NGOs and local membership organizations, whereas a concern with democratization highlights the more political role played by civic organizations, such as trade unions, professional bodies and groups representing women, students and youth. The former emphasizes the role of civil society in service provision and programme implementation, whereas the latter addresses the contribution of civic organizations to the process of democratization and in holding governments to account for their policies and actions."

Most donor agencies see CSOs as important actors in the transformation process. They use participatory approaches that help local organizations to influence donor strategies and initiatives. There are four levels of participation that might be used. They include information sharing (or one-way communication), consultation (or two-way communication), collaboration (with shared control over decision and resources), and empowerment (with transfer of control over decisions and resources).

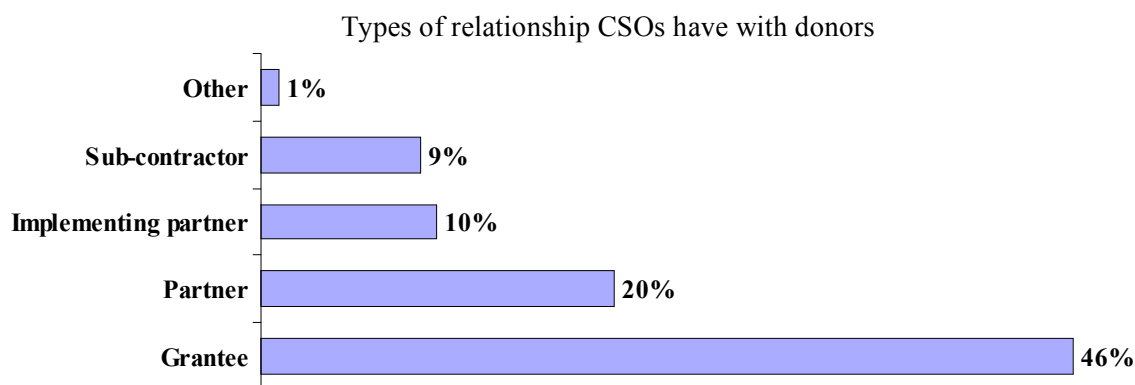
Most donor agencies disseminate information about their strategies and existing programmes through Internet and e-mail, individual consultations and presentations in the field, on-site visits and publications. Some donors conduct a series of consultations with civil society stakeholders during a new cycle of strategic planning of their development assistance. In Ukraine a number of donor agencies, including CIDA, DFID, USAID, and World Bank, conduct meetings and sessions with representatives of civil society in order to shape their future strategies. A fewer number of donors establish advisory councils or expert groups which represent nongovernmental or civil society organizations in order to participate in agencies' meetings and to provide feedback on program documentation. Existing consultative groups

include – The Civil Society Advisory Group at the World Bank, the Standing Civil Society Consultative Group (SCSCG).

However, the work of these groups terminates as soon as interest and support for their work are completed or programmes and champions who initiated such mechanisms leave. Such things happened with both mentioned above groups. As for the World Bank civil society involvement is not a priority and program that supported SCSCG work was ended. Obviously, the same may happened with the Advisory Council and the Ukrainian Action Network due to the end of the USAID funding for this project implemented by the Institute for Sustainable Communities. In addition, it is important to mention that the function of those councils was limited to meeting, reviewing and providing feedback on program documents and materials. Those groups were rather nominative structures in terms of their input and influence on the donors' agendas. However, even such participation provided an opportunity for civil society leaders to understand the background of donor development policies. It may be concluded that no effective mechanisms exist right now in Ukraine to allow the active involvement of civil society leaders in formulating technical assistance priorities.

The European Neighbourhood and Partnership Instrument is an new EC proposal launched in 2007 which gives civil society with roles in planning and implementing EU strategies and programs. This has been outlined in article 4, paragraph 2 of the Regulation proposal (2004/0219 COD): “Community assistance shall normally be established between the Commission and the beneficiaries. The partnership shall involve, as appropriate, national, regional and local authorities, economic and social partners, civil society actors and other relevant bodies.” This closely parallels the spirit of the Barcelona process which encouraged the “participation of civil society and populations in the planning and implementation of development measures”. This new EC external relations instruments are a historic opportunity to get the neighbouring countries closer to the EU with respect to its values and standards. These changes will only happen if the cooperation is based on economic, political, cultural and human principles and involve civil society actors. However, civil society should be ready not only to participate but also have the capacity to perform.

With respect to the relationships that Ukrainian CSOs presently have and envision for themselves and donors, according to findings of the 2006 Counterpart Creative Center CSO survey, 57% of CSOs in Ukraine cooperate with donors. CSO leaders were given an opportunity to specify all possible types of cooperation. The answers of the respondents can be seen below.



In spite of the fact that the most widespread type of CSO cooperation with donors is the provision of financial or technical assistance, some organizations cooperate with donors on a higher level as a partner or implementing partner. This demonstrates that CSOs attempt to take a more active part in cooperation with donors and participate in donor policy development. However, since 2003 the status of CSOs cooperation with donors has not changed.

Currently more than a half of Ukrainian non-governmental organizations work with international donor organizations. Often donors view CSOs as catalyzers for changes in society; role which demands experience, maturity, knowledge and skills from the third sector representatives. Unfortunately, not many Ukrainian CSOs have the capacity and skills needed to fulfill this role. Besides, insufficient willingness of CSOs to work directly with the community and people largely blocks fruitful cooperation with donors. Only one fifth of Ukrainian CSOs conscientiously took the role of a partner (one tenth – of an implementing partner) in joint projects with donors. Many CSOs cannot take advantage of all existing

opportunities for involvement in civil society actions and projects as there is inadequate understanding of donor priorities and policies as well as a lack of CSO capacity to work with donors as partners in joint projects. In addition, many opportunities provided by technical assistance projects are only capitalized by a small circle of CSOs that are aware of new developments and are able to take advantage of the opportunities offered.

Review of relevant mechanisms for civil society consultation implemented by the Ukrainian government

Civil society efforts in improving cooperation with government

Many positive trends have been observed in the relationships between the Ukrainian government and civil society organizations and groups. Many of these changes have happened as a result of the 2004 Presidential election and Orange revolution. There are several trends in civil society - government relationships.

- Many civil society leaders moved to work for government institutions at different levels.
- The relationship between the state and civil society is developing in the direction of providing civil society organizations with autonomous status and financial support, but at the same time the dialogue between these two parties is limited.
- One-third of all CSOs receive funding from government. Starting from 2004 government provides CSOs with higher amount of funds that it did before.
- There has been an increase in the frequency of contacts that Ukrainian CSOs have with the state since 2004. CSOs' members and volunteers regularly contact state authorities and in most cases both sides are interested in cooperation.
- The amount of CSOs that implemented more than three projects in partnership with government authorities increased from 13% in 2002 to 25% in 2005.
- Since 2002 the level of cooperation between CSOs and government improved. However, according to the perspective of CSO representatives, the contents and productivity of cooperation has remained the same.
- The level of cooperation between CSOs and government at the regional and local level is higher than at the national level, but at the same time the obstacles that hinder cooperation are the same at all levels. The drawbacks of government structures are dominant among the reasons for limited cooperation between the third sector and the state (lack of information, desire or understanding).
- The opinion of CSOs' leaders regarding the main factors that hinder effective cooperation with government authorities did not change compared with the period 2002-2004. *The lack of understanding of the benefit of such cooperation from the government side, lack of information about CSO activities, and a reluctance of national government to cooperate* were chosen as the main barriers. Thus, CSO representatives in Ukraine tend to blame government authorities for insufficient cooperation.
- Growth of public activism in solving some territorial issues arising from the construction of new buildings in parks or green zones in cities.

Despite some progress in the level of CSO cooperation with government, it is important to mention that civil society groups rarely use such mechanisms of public participation such as public hearings, public meetings, local initiatives, local referendums, etc. This is connected with the lack of competence and legal education of civil society leaders. The main form of participation in public policy development is through round table discussions, press conferences and seminars. Very few civil society organizations are able to develop and present policy papers that can be used by government.

In conclusion, it is important to mention that the coalition of civil society organization designed a *Concept of civil society in Ukraine* that defines values system, principles and expected results of civil society development in Ukraine until 2020. This concept introduces main principles and standards of public policy in areas such as CSO legislation, CSO financing, mechanisms of public participation, provision of social services and regulation of voluntary movement, and access to information and informational openness of public institutions. Additionally, 'concept' expresses interests of NGOs, charity foundations and self-organized bodies. Interests of political parties and religious organizations are not covered by 'concept.'

It is believed that ‘concept’ will increase state interests to civil society and assist CSOs in cooperation with the state, publicize their activity, teach and persuade the government about the benefits of cooperation with CSOs.

Government regulations and requirements for civil society consultation mechanisms

Government bodies and self-government bodies have either departments or group of people that are responsible for providing information to citizens and mass media. In recent years, there are increased interests from governments on all aspects of civil society initiatives and groups. Representatives of civil society organizations are often asked to participate in different working groups organized by government to solve specific problems. However, this experience is not wide spread and in most cases depends of personal initiative and relationship between government authorities and CSOs leaders. In 2005 some progress was made to institutionalise such cooperation. Unfortunately, political instability does not allow this initiative to progress and grow into something more substantial.

Several legal developments allow public and civil society involvement in formulation and implementation of governmental policy. In October of 2004, an Act of the Cabinet of Ministries of Ukraine approved public participation in formulation and implementation of state policy. Later two more Acts in May of 2005 and March of 2006 provided regulations on public consultations and proposed provisional standards for establishing public councils at the national and local administrations. According to this regulation, the public council is consultative by nature with the purpose a providing a space to the public to implement their constitutional right of influencing the process of state policy formulation and realization. The majority of oblast administrations have established such public councils. Some oblasts even have specialized public councils, such as a youth council in Vinnytsya and Poltava.

However, the majority of experts (UCIPR 2006) think that civil society has not effectively utilized this opportunity. At the same time, most of these public councils are formally established because the Law requires it, but do not actually function. In addition, the consultative status of the public councils provides an opportunity for state administrations to ignore recommendations and comments provided by the councils. Currently, civil society does not have real mechanisms for influencing state policy and the state does not yet understand the importance of involving the public for solving community issues and problems.

Also, it is important to mention the advisory councils set up by the committees of the Verkhovna Rada. However, it is not known yet whether these councils are settled by newly elected deputies or not. In the past five committees worked with public councils and some of them have produced new laws and regulations that later were approved by the Verkhovna Rada.

In 2006 the Secretariat of the Cabinet of Ministries prepared the Green Book *On democratization of the decision-making processes*. The main aim of the Green Book is to improve existing practices in decision-making according to European standards of design, approval and implementation of governmental decisions. The paper defines existing problems and limitations in two main areas connected to procedures and communication. At the same time, it describes approaches and initiatives for future steps.

In addition, the Cabinet of Ministries of Ukraine prepared a draft of the *Concept of state cooperation with civil society*. The main purpose of the Concept is to support the democratization of state bodies, develop and strengthen civil society and its groups and organizations, and improve partnership and cooperation between the state and civil society. The document accepts that respect of civil society is one of the requirements of the European Union and Ukraine, as a state, should support the formulation of a Ukrainian model for civil society. It is expected that implementation of this Concept will improve partnership between the state and civil society and increase the image of CSOs. This will allow CSOs to become a real instrument of public control of the effectiveness and transparency of state bodies improve Ukraine’s image in the world, increased public participation, and increase public trust in the state and its institutions.

In conclusion, in recent years the state and government made numerous efforts to improve relationships with civil society. Representatives of civil society groups and organizations are more often included in working groups and public councils at national and local levels. At the same time, no clear criteria or rules were defined for the inclusion of civil society representatives in “participative” mechanisms established by

government and, in most cases, their selection depended on personal relations and initiatives of public officials. Civil society does not use opportunities provided by legislation for public participation and public officials do not completely understand, encourage or support public involvement in policy design and implementation. However, as Ukraine comes closer to understanding and accepting the European standards of democracy, the state and government will better understand the benefits and usefulness of civil society participation in the design and implementation of governmental policy.

Review of relevant mechanisms for civil society consultation implemented in Central and Eastern European countries

Most of the Central and Eastern European countries that went through the process of the EU accession involved civil society. Governments saw civil society as a credible partner whose support they needed for harmonizing the interests of all the citizens, to ensure the transparency of the accession negotiations, to make use of the contribution that civil society partners may bring as well as to bring together citizen expectations and transport them into solutions for the daily problems. Civil society interests lay in the opportunities to access new funding sources and the introduction of new elements and mechanisms of civic culture. EU policies promote public participation of an organized civil society. The EU promotes and supports public consultation, establishment of partnerships, social dialogue and other forms of civic participation at all levels – European, national, regional and local. It is particularly evident in regional policy where numerous consultative bodies exist and actively include public officials, trade union representatives, entrepreneurs along with NGOs' representative. This aspect of EU policy on decision-making creates a huge potential for the active involvement of CSOs in the programming, implementation and monitoring of the EU funds. However, different countries of Central and Eastern Europe used proposed opportunities and mechanisms to the different extent. The following samples presents stories of NGO participation in Structural Fund planning in some Central and Eastern European countries – now new members of the EU. It is important to mention that all reviewed documents on civil society involvement in the programming, implementation and monitoring of EU funds refer to NGOs and not to CSOs.

Estonia

The Estonian NGO community has had its say about planning and the use of the EU funds in Estonia although NGO involvement has been, so far, rather weak. For programming of EU assistance in 2004-2006 as many as 98 NGOs were identified as social partners by the Government and involved in the planning process. A chaotic programming process and lack of funding was not allowed much cooperation between NGOs from different sectors. Input of social partners was requested in very few programming stages and only 25% of their total comments were fully accepted and commented on by the government. Despite all circumstances, NGOs indeed impacted the outcomes of the final Single Programming Document (SPD), still NGOs would have had stronger influence if properly financed and better organized. NGO involvement included the Council of NGOs, preparation and provision of joint comments on SPD analytical part, participation in meetings and lobbying activities that include meeting with Prime Minister.

The Structural Funds are designed and planned by the ministries responsible, led by the Ministry for Financial Affairs. Only in rare cases are NGOs consulted about Structural Fund design (one example being the Union of NGOs) and they tend to be the more powerful and strong ones. NGOs tend to be consulted only in social or sectoral areas (e.g. the Union of Child Welfare on children's issues), not on the plan as a whole. NGOs are formally recognized as partners but in reality they comprise only about 5% of the participants in the process. It is unclear how the government selects its NGO partners, but it tends to select the bigger, financially stronger NGOs. About ten social inclusion NGOs have been consulted, such as the Tallinn Child Support Centre. 'They ask us for statistics and opinions about some issues'.

Having learned from lessons of 2004-2006 EU funds programming, NGOs are better add to fully participate in the ongoing 2007-2013 programming process. An informal coalition of umbrella organizations and individual NGOs from different sectors has been formed. The coalition has held several meetings and trainings: January, April, September and December 2005 and January 2006. Daily coordination and information sharing is carried out through a special e-mail list. Several joint letters and statements have also been issued, as well as comments on official draft documents. The coalition also facilitates the exchange of information between NGO representatives in various steering and monitoring

committees linked to EU funds. The coalition has good cooperation with unions of municipalities, as well as with trade unions. In addition the 2006 schedule of national programming activities involving NGOs' representatives are drafted and known to the NGO community. Events that are highlighted on the 2007-2013 schedule include:

- | | |
|-------------------|-------------------------------------------------------------------|
| * November 2005 | launching seminar for national programming process |
| * February 2006 | decision on how many and which Operational Programs (OPs) to make |
| * March 2006 | draft NSRF is published for comments |
| * March-May 2006 | consultations with European Commission |
| * March-May 2006 | drafting of OPs |
| * April-July 2006 | ex-ante evaluation and SEA of OPs |
| * June-July 2006 | public consultations of OPs |
| * August 2006 | approval of OPs by Government |
| * Sept-Nov 2006 | negotiations with European Commission on OPs |

Latvia

The programming process of EU funds for 2007-2013 began in October 2005. Public consultations started in May 2006 when several drafts of operational programmes were prepared and revised. The role of social partners and NGOs includes the provision of comments and input into draft documents. Involvement opportunities for social partners and NGOs include provision of written remarks on all stages of programming (with establishment of certain deadlines for comment as well as 'passive' commenting), meeting with the Ministry of Finance, sector ministries, and representatives from Prime Minister office. No official working group of representatives from social partners or NGOs was established. However, 3-5 environmental NGOs and the Advisory Council of Environmental NGOs followed the programming process and prepared position papers focusing on some specific issues of concerns. Social NGOs were presented by the most active organizations and also prepared position papers and comments on the draft documents. It is important to mention that most of the information, documents, comments, reports, and presentations, timeline of programming and public consultations as well as first reaction and comments from EC concerning national programming are available online. Electronic communication is used by the Ministry of Finance for communicating with civil society organizations about upcoming events. The mass media provided updates on the programming process as well as expressing the viewpoints and opinions of different stakeholders.

Slovakia

The process and scope of Slovakian NGOs involvement is similar to that of Latvia or Estonia but has its own specifics. At the beginning of the process Partnership Principles were designed. They included issues such as the necessity to include NGO experts as members of the governmental expert team in order to enhance partnerships and enforce transparency. The importance of strengthening cooperation between the government, NGOs and other sectors; and creating partnerships at every level (European, national and local). NGOs focus on their activity at two levels. First, to improve NGO knowledge about the EU integration process by disseminating information in newsletters, bulletins, websites, conferences and seminars, NGO e-mail conferences, EU information telephone line, press conferences, etc. Second, a NGO working group was established and focused on the development of a NGO Position Paper that states NGO positions on the integration processes. In the Position Paper, NGOs presented then general assessment of the EU accession process from the perspective of its impact to the country development, underlined values of the process such as transparency, participation and responsibility sharing, expressed opinions about current situations and provided recommendation to state administrators and the EU institutions.

Czech Republic

In addition to the above presented experiences in Estonia, Latvia and Slovakia, Czech NGOs' representatives are part of different monitoring committees that focused on human resource development, industry, cohesion funding, agriculture and regional development as well as working groups on environment and transport. However, by now few working groups and committees seem to operate regularly.

Hungary

The public consultation process within the 2004-2006 programming process was organized by NGOs' representatives jointly with the Ministry of Economy. Two rounds of consultations were held in every county – one regarding National Development Plan and the other concerning the five Operational Programmes in regional development, agriculture and rural development, human resources, economy, environment and infrastructure. Thematic consultations were conducted in Budapest. After that all received comments and recommendations were structured thematically and summarized in a written format. This was done by an NGO. Then prepared document was then forwarded to the Ministry of Economy and the National Development Plan office. Despite the impression that the NDP office seemed to be open to the comments, it barely took them into account. In addition, the ministry felt that it must include NGO representatives into the NDP working group at the Ministry of Economy rather than an opportunity.

However, membership of NGO experts in the SEA team was valuable as the team developed a Hungarian methodology for the SEA. There were not any NGO representatives in the Steering Committees for 2004-2006 programmes' implementation but involvement of environmental NGOs in the project selection process helped to select projects oriented towards environmental sustainability and quality control. Despite NGO membership in the monitoring committees for Operational Programmes, the government tried to keep the role of monitoring committees at a formal level. Still some good practices came from the monitoring committees such as training on sustainable development, horizontal development of sub-committees, and the creation of program complement working groups.

The new 2007-2013 programming cycle started last summer and NGO representatives are included in 5 out of 9 thematic groups and in 2 out of 7 regional groups. Unfortunately, some negative trends might be observed. They include top down strategic planning, no NGO involvement into evaluation of 2004-2006 NDP process and some rush in governmental actions.

Lessons learned from the Central and Eastern European countries

The EuroCitizen Action Service (ECAS) report *The illusion of inclusion* (2004), focused on partnership in the new Member States of Eastern and Central Europe, showed that:

- Only a few governments consulted with non-governmental organizations.
- Consultation took place at early stages of the writing of national development plans, but not during later stages. It was during these later stages that documents were changed most.
- Consultations were often very rushed, with little effective time for NGOs to make a useful contribution.
- Where there was consultation, it was very difficult to see whether or how these views had been listened to, if at all.
- Few governments, if any, had any proper consultation plan.
- Only one government (Estonia) issued a report on the consultation process itself.
- The main forms and mechanisms of civil society involvement and consultation included information sharing, meeting with governmental authorities, defining partnership principles, working groups, monitoring committees and advisory councils, preparation of position papers.

In most Central and Eastern European countries, NGOs are now formally recognized as partners. Despite this, the recognition falls short of what is possible, for three reasons. First, governments seem to consult NGOs only on a limited range of actions in the social, environmental and equality field, not on the plan as a whole. Second, some governments appear to have a narrow conceptualization of partnership, one in which it is limited to projects rather than policy. Third, governments tend to consult only with certain NGOs and not always social inclusion NGOs.

Governments appear to go through several stages in the evolution of partnership:

- Acceptance of the principle of partnership;
- Extending the partnership beyond the classic social partners (employers and trade unions);
- Extension beyond environmental and gender NGOs;
- Extension beyond 'safe' NGOs to the all the NGO families.

Similarly, the planning and design process appears to go through a number of stages and dimensions. Several governments have not got far beyond publishing a plan and inviting one round of comments.

At the same time, very few countries demonstrated transparent or open selection process of NGOs' representatives to working groups and committees. In many cases NGO representatives were either appointed or selected by the authorities on unknown criteria and terms. In addition, NGO involvement demonstrates lack of NGO representatives' knowledge, skills and capacity needed for participation in the EU programming, implementation, and monitoring processes. NGOs must learn to partner and communicate with governments and other sectors.

CHAPTER 4.

RECOMMENDATIONS ON PRACTICAL IMPLEMENTATION OF MODELS OF CIVIL SOCIETY INVOLVEMENT INTO EXTERNAL AID PROGRAMMING IN THE CONTEXT OF ENP

This chapter provides recommendations to the European Commission and Ukrainian government at policy and operational levels on approaches and mechanisms of civil society involvement for programming, implementation and monitoring of the EU aid fund. At the same time, possible areas and projects for NCU contribution are specified.

Policy recommendations to the EC and to the Ukrainian government

To the EC:

1. The European Commission must insist that the Ukrainian government work more closely with civil society actors by involving them from the beginning in agenda setting and policy definition and not just for validation. Civil society involvement in the EU aid fund programming, implementation and monitoring should be formalized in policy documents.
2. EC Delegation in Ukraine should establish mechanisms for information sharing with civil society on practical issues such as programming, calls, reporting and their implications.
3. Civil society should be involved in the impact evaluations that precede new EC programming and the European Commission must make greater use of local experts in impact evaluations as well as in evaluations of project proposals.
4. The EC Delegation in Ukraine must create greater flexibility in the present EC financial architecture to allow access to funding by Ukrainian small CSOs, as a priority: i) minimum and maximum project levels appropriate for absorption capacity of eligible actors, and ii) procurement rules that are realistic in the Ukrainian settings.

To the Ukrainian government:

1. Recognize CSOs as full partners and operate an open door policy to CSOs in the EU fund design and planning. Design clear selection criteria and conduct open and transparent selection process of CSO representatives.
2. Publish a consultation plan and timetable, with clearly outlined, distinct stages. Ensure there is plenty of time for each stage: beginning, middle, end. Share plans and draft documents at the earliest possible stage. Make new versions available promptly.
3. Provide technical assistance for CSOs engaging in consultation. Use working groups for specific themes and involve CSOs in them. Involve CSOs working in different regions and with the most excluded parts of population.
4. Use several forms of media to spread knowledge about the consultation: websites, paper publications, press, CD-ROM.
5. Report on the consultation process afterwards - who was consulted, how, what was said, how comments have been incorporated - and if not, why not, and how the plans were modified as a result.

Recommendations to the EC and to the Ukrainian government at operational level

To the EC:

1. The European Commission needs to support capacity building of Ukrainian CSOs for partnership by using domestic and technical assistance resources and :
 - supporting the role of the national and regional networks of CSOs, which took the task to disseminate information on EU policy and to promote civil society participation in planning of the EU aid assistance;
 - building capacity of CSOs by training, consultancy and financial assistance in project preparation for EU aid funding;
 - connecting Ukrainian CSOs with their counterpart in the EU member countries.
2. Draft guidelines for civil society participation that include proposals on:
 - mapping exercises to identify civil society actors, the conditions in which they operate and constraints of their engagement;
 - content and organization of consultations and dialogue and follow-up procedures;
 - civil society organizations capacity building;
 - monitoring systems based on indicators to assess the quality of the process of civil society participation.
3. Support CSOs in a design of Position papers as well as CSOs representatives participation in the programming, implementation and monitoring of the EU aid assistance.
4. Design and implement a system to monitor partnerships between government and civil society

To the Ukrainian government:

1. Develop clear, binding and enforceable rules and regulations for partnership with civil society on the EU programming, implementation and monitoring.
2. Strengthen the legal framework of civil society participation.
3. Create partnership with civil society organizations in project development and implementation. The national authorities should:
 - design financial and administrative tools enabling CSOs (as significantly financially weak beneficiaries) to operate EU funded projects;
 - include partnership with several stakeholders, especially with CSOs, as a one of the scoring criteria within the project selection process.
4. Involve civil society organisations on decision making for financing, monitoring and evaluation of EU assistance. For a transparent and democratic financing and for the sustainable use of EU funds the national authorities should:
 - provide timely and full information regarding EU operation for public and especially CSO communities,
 - involve representatives of CSOs selected by CSO community itself for each Monitoring Committee;
 - all the members of the Monitoring Committee should have equal rights, the decisions should be based on consensus;
 - invite CSOs to Management and Project Selection Committees with clear and transparent rules of decisions.

In conclusion, it is necessary to remember that EU aid programming is a complicated and a sophisticated planning process and CSOs do not necessary know all details and should be guided and consulted throughout the process at multiple stages (beginning, middle, end) by experts. It is important to collect broad and a wide range of CSO opinion and invite a depth of CSO comments. A sectoral as well as general approach in selecting of CSOs for consultation should be used along with a variety of methods to reach out to a wide range of groups, communities and citizens. Moreover, it is necessary to invite not only safe participants and conduct consultation process in a transparent way: stating the planning system and time schedule before it starts. In addition, narrative report should be produced with lessons learnt from the process as well as with recommendation on its improvement. At practical level, it is crucial to:

- renew work of the Standing Civil Society Consultative Group;
- conduct informational sessions and seminars to wider stakeholders in civil society at the national and regional level on EU aid programming, implementation and monitoring;
- assist CSOs in prioritising their efforts by informing and consulting them as what is realistic to achieve. Furthermore, it is important help CSOs stay focused on defined priorities as it is not possible to solve and comment everything.

As it mentioned previously, the civil society sector needs to be supported in developing its capacity to voice interests and needs of citizens and to act as a real partner to government in solving societal issues and problems. Still, it is important to focus efforts and support projects and programs that could create long-term, sustainable results. Below are samples of specific projects that might be supported by the EU and Ukrainian government.

- ***Introducing a system of civic education to involve citizens in civil society.*** The introduction of a system of civic education would increase knowledge on civil society among the wider public and thereby encourage greater participation. Education on democracy should begin in primary schools so that children can acquire the skills of participation from an early age. In order to achieve this, the Ukrainian Ministry of Education, civil society activists and professionals should collaborate on the issue of civic education. Adult education can be accomplished through media programs and the distribution of information through the use of television and the press.
- ***Establish a system of professional education for CSOs.*** There is a need for a coherent and profession-based educational system for CSO professionals. It is time to move from sporadic training to the introduction of courses on nonprofit management, strategic planning, project management, fundraising, public relations and communication at the university level. This task can be achieved by developing such courses with the assistance of civil society experts on organisational issues. The Ukrainian Ministry of Education, which develops programs for university courses, could play an important role in this effort. Private universities could also be involved by negotiating the possibilities of introducing such courses funded by fees.
- ***Establish an information system of public awareness.*** It is important to support activities aimed at raising public awareness, in both Ukraine and the EU, of the need for co-operation between an enlarged EU and Ukraine. The Ukrainian people should be informed about EU values and standards while European countries should understand and view Ukraine as part of an enlarged Europe with its specific interests and concerns. Such information will assist in the systematic intensification of co-operation and the exchange of experience and information between organisations in the EU member states and Ukraine.
- ***To support the establishment of national civil society organizations' platforms*** in Ukraine and increase the capacity of civil society in Ukraine for lobbying their own governments on EU-Ukraine development issues and for developing and implementing related awareness-raising campaigns. This could be done through developing and maintaining a website including a database that offers groups and individuals in Ukraine and the EU the opportunity to select and contact partners using various search criteria; translation of relevant articles and documents on development policies and co-operation into Ukrainian; producing a supplement to the Liaison News (the two-monthly newsletter of the Liaison Committee of NGDOs to the EU in Brussels) on enlargement and the activities of CSOs in Ukraine.
- ***Design programs aimed at creating partnerships between EU and Ukrainian CSOs.*** In the process of creating New Europe, the role of EU CSOs is twofold. On the one hand, by cooperating with their counterparts in neighbouring countries, CSOs are developing and improving their capabilities, as well as promoting and consolidating democracy, human rights and fundamental freedoms in the neighbouring countries. On the other hand, support for the establishment of new CSOs in neighborhood countries will increase the availability of NGO expertise there, which later on can result in important contributions to EU development policy discussions.