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Models to Promote Cooperation between Civil Society and Public Authorities Working Paper¹

I. INTRODUCTION

The cooperation between public authorities (parliament, government, government agencies, local government) and civil society organizations² (hereinafter: “CSOs”) has evolved significantly over the past few years in countries all over the world, and it continues to grow and shape based on the local needs. There is a well-recognized tendency to expand the scope and forms of cooperation and to institutionalize this partnership in order to ensure its continuity and sustainability.

Public authorities recognize that a vibrant and sustainable civil society contributes and complements the state in addressing needs and allows citizens to become active participants in the society. CSOs play a crucial role in this process as through them citizens organize themselves and express their legitimate interest more effectively.

CSOs generally evolve from interests of their constituencies and strive to find the best solution for the emerging problems. Oftentimes, they create and use innovative ideas which can be later expanded to various areas of activities and service provision. Some CSOs continuously map out citizens’ needs and are able to react promptly to the arising needs, without long and bureaucratic procedure. In the same time they attract resources and build capacity in the areas where they work. Therefore, public authorities decide to contract out or delegate the government tasks to CSOs; they realize that CSOs work closer to the grass-roots, understand local needs better and are more cost-efficient and flexible.

¹ The present paper was developed based on the following researches: Katerina Hadzi-Miceva Evans: European practices on implementation of policy documents and liaison offices that support civil society development. ECNL and ICNL, 2009; ECNL and TACSO, 2013, Keeping up the Momentum: Improving Cooperation between Public Institutions and Civil Society in the Western Balkans and Turkey; Eszter Hartay: A Comparative Analysis of Civil Society Foundations and Funds. ECNL and ICNL, 2012; Katerina Hadzi-Miceva-Evans: Comparative Overview of European Standards and Practices in Regulating Public Participation. Commissioned by OSCE and the Macedonian Center for International Cooperation (MCIC), 2010.

² The term civil society organizations (CSOs) include various nonprofit and non-governmental organizations, such as associations, foundations, political parties, trade unions, media, religious organizations and similar. For the purposes of the present paper CSOs will refer to narrow category, including associations, foundations, private institutions, and not-for-profit corporations. The notion non-governmental organizations (NGOs), which is oftentimes used inter-changeably with the notion CSO, is used in the present paper only insofar as it is part of the official name of a particular institutional instrument for cooperation.



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On the other hand, CSOs have an important role in shaping policies and laws and in promoting citizens' needs in those processes. The right of citizens to participate in the conduct of public affairs is one of the basic democratic principles which ensures that people can tackle problems that directly affect their lives. Citizen participation also enables authorities to carry out their competencies more efficiently. Oftentimes, it is challenging for the citizens to reach out individually to the decision-makers and make a tangible impact on the process. Hence, CSOs are generally viewed as a bridge between citizens and public authorities which help articulate the opinions of the concerned citizens more constructively.

Participation is seen to contribute to the creation of fair policies/laws reflecting the real needs and enriched with additional experience and expertise. Participation facilitates cross-sector dialogue; ensures legitimacy of proposed regulation; decreases costs, as parties can contribute with own resources; increases partnership, ownership and responsibility in implementation; strengthens democracy by preventing conflict among different groups and between the public and the government; and increases confidence in public institutions.

Therefore, by cooperating with CSOs the public authorities utilize the added value, expertise and resources of the CSOs. By supporting CSOs, public authorities help improve CSO capacity to fulfill their policy making and service provision roles in a more efficient way.

II. ENABLING ENVIRONMENT FOR CIVIL SOCIETY

2.1. Elements of a supportive legal environment

Public authorities have been supporting CSOs through enacting a favorable legal environment for establishment and sustainable operation. Enabling laws create a protective framework which limits the ability of governments to interfere with CSO basic rights and ensures that CSOs can carry out their roles and address the needs they aim to fulfill. Equally important, an enabling legal framework creates strong, reliable partners in the civil sector and therefore contributes towards the development of partnerships between CSOs and public authorities.

There are 6 basic freedoms that civil society needs to operate and the environment is considered enabling if there are no obstacles to their free enjoyment. Those include:

1. The right to entry (freedom of association);
2. The right to operate freely from state interference;
3. The right to free expression;



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4. The right to communication and cooperation (with other CSOs, business community, international organizations, governments);
5. The right to freedom of peaceful assembly (CSOs, individually or through their organization);
6. The right to seek and secure resources (from individuals, businesses, governments, intergovernmental organizations);

The precondition for all of this is the premise that “the state has a duty to protect” which also includes the obligation to ensure that the legislative framework related to fundamental freedom and civil society is enabling and the necessary institutional mechanisms are in place.³

2.2. Models of cooperation

The public authorities have been using various means to facilitate the development of the civil society sector and its participation in the policy-making, including

- Policy documents for cooperation;
- Government offices for cooperation;
- Contact persons or department for CSOs at ministerial level;
- Contact person in the parliament;
- Councils for civil society development;
- Other cross-sectoral advisory bodies focusing on specific areas or issues;
- Civil society funds/foundations;
- Codes/regulations on citizen participation.

In order to strengthen the cooperation and ensure longer term partnerships public authorities have adopted policy documents (strategies, compacts, memorandum of understanding etc.). These documents provide a strategic framework, which generally outlines the vision of the sector, highlights the role of CSOs, sets out the framework and the principles of cooperation, as well as lays down the grounds and directions for future partnership and development of the sector.

Further, public authorities have established mechanisms to facilitate cooperation with CSOs and in the same time help the sector grow. The models and mechanisms can take different forms. One typical example is the setting up of a separate office, department, or assigning a contact person with the mandate to foster cooperation with and support the development of CSOs. Some countries set up cross-sector advisory bodies (councils, boards etc.) in order to create a platform for continuous and sustainable dialogue in addressing

³ Defending Civil Society Report, Second edition, June 2012. International Center for Not-for-Profit Law and World Movement for Democracy Secretariat at the National Endowment for Democracy.



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issues that affect all CSOs or some sub-sectors. Further, recognizing the lack of sufficient financial resources available for the development of the sector separate funds/foundations were also established to provide financial assistance to CSOs.

Finally, the principles and rules of CSO involvement in policy and law making processes have been translated into codes or regulations. These documents have helped elevate the importance of citizen and CSO participation and ensured that all public authorities and CSOs are familiar with the benefits of such involvement, the ways to involve and also the obligations and opportunities that arise from it.

III. POLICY FRAMEWORK FOR COOPERATION

3.1. Background

Policy documents (hereinafter: “PDCs”) aim to support the development of civil society and foster cooperation between the state and CSOs. They map out the existing framework and practices of cooperation, the characteristics and the external environment of the civil society sector, as well as the vision, grounds and directions for future partnership and the development of the sector. Specifically, they outline the results that they seek to accomplish, the list of specific measures and activities that need to be undertaken, including indicators to facilitate the monitoring of progress. They assign responsibilities to bodies of the state administration to ensure that the documents will be implemented and aims achieved, within the set timeline.

Policy documents may take different forms depending on the content and goals they want to achieve. The PDCs may appear as

- **Bilateral documents** (so-called agreements or compacts) concluded between a state body and representatives of CSOs which outline the goals and principles of cooperation and the undertakings of both parties. Bilateral documents may or may not be formally adopted.
- **Unilateral documents** (so-called strategies) adopted by a state body which express commitments by only one side.

In addition, on national level they can be adopted by the government or a ministry. They can cover the whole field of work of the civil society or one area (e.g., volunteerism, social sphere).

The adoption of national strategies can facilitate and encourage drafting of local policy documents. As an example, after the Council of Ministers of Bosnia and Herzegovina adopted the Agreement on Cooperation between the Council of Ministers of BiH and the Non-Governmental Sector, 67 municipalities signed similar agreements by 2009.



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3.2. *Examples from Europe*

PDCs have been elaborated in many European countries in the past 25 years, starting with the adoption of the Compact on Relations between Government and the Voluntary and Community Sector in England.

Examples of bilateral documents exist in all regions of Europe, *inter alia* in France⁴, Croatia⁵, Scotland⁶, Bosnia and Herzegovina⁷, Latvia⁸, and Kosovo⁹. In addition, civil society strategies have been adopted in many other European countries, including Hungary¹⁰, Slovenia¹¹, Denmark¹², and Montenegro¹³. In the past two years there have been many new initiatives all around Europe: the first ever strategy was adopted in Bulgaria in September 2012 and most recently in Kosovo, on July 5, 2013¹⁴. In addition, the second generation of strategies were adopted in Moldova¹⁵, Macedonia¹⁶ and Croatia¹⁷ in 2012.

3.3. *Examples from the Middle-East North Africa (hereinafter: “MENA Region”):*

Over the past year, representatives of NGOs, Government and Parliament adopted the *Compact on Partnership and Development between Public Authorities and Non-Governmental Organizations in the Kurdistan Region of Iraq* which is the first of its kind in the Middle East. The Compact was formally approved by the Kurdistan Parliament on June 12, 2013. The first draft was developed by the Project Implementation Committee consisting of the representatives of the various stakeholders. It was consulted with more than 500 NGOs and other civil society stakeholders through numerous awareness raising and consultation

⁴ State-Association Charter (2001)

⁵ Program of Cooperation between the Government and the Non-Government, Non-For-Profit Sector in the Republic Of Croatia (2001)

⁶ The Scottish Compact (2003)

⁷ Agreement on Cooperation between the Council of Ministers of BiH and the Non-Governmental sector in BiH (2004)

⁸ Cooperation Memorandum between Non-governmental Organizations and the Cabinet of Ministers (2005)

⁹ Memorandum of Cooperation (2007)

¹⁰ Strategy on civil society (2002), Resolution on Provisions Serving the Development of Government-Civil Relations (2007)

¹¹ Strategy of Cooperation of the Government of the Republic of Slovenia with Non-Governmental Organizations (2003)

¹² Danish Charter for Interaction Between Volunteer Denmark/Associations Denmark and the Public Sector (2001)

¹³ Government's Strategy for Cooperation with Non-Governmental organizations (2009)

¹⁴ Strategy for Cooperation with Civil Society (2013-2017)

¹⁵ Strategy and Action Plan for Development of the Civil Society in the Republic of Moldova for 2012-2015.

¹⁶ Strategy for Collaboration with Civil Society (2012-2017) and the accompanying Action Plan.

¹⁷ National Strategy for the Creation of an enabling Environment for Civil Society Development (2012-2016)



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sessions across the three regions of Kurdistan. The Compact outlines the values and principles governing their relationship as well as the mutual undertakings of the parties and will institutionalize the relationship between public authorities and civil society.

The elaboration of a policy document on federal level is also in process. The draft Charter of the Public Authorities for Cooperation with Non-Governmental Organizations for the Development of Iraqi Society outlines the main principles of cooperation, and the undertakings of the parliament and the government to support the cooperation and development of the sector. It is currently undergoing public consultations and is expected to be finalized in the fall.

Yemen and Morocco have also undertaken National Dialogues. While these dialogues have not yet concluded, reports indicate that they will produce Charters to promote participatory democracy and more cooperation between civil society and the government.

3.4. Keys to success

Based on the lessons learned of numerous PDCs adopted all around the world the following elements can be considered as key to the successful implementation.

1. **The document is developed through a participatory process:** Participatory process ensures that the document responds to actual and priority needs, the stakeholders feel ownership and undertake responsibility for the implementation of the commitments. In the same time, it raises awareness about the importance of the issues, which can further commit public authorities and CSOs to partner and implement it. Therefore it is essential that the policy document is elaborated in a highly participatory manner.
2. **Implementation issues are considered from the very beginning of the drafting process:** The implementation issues must be discussed at the earliest stage of development of the policy document. This can ensure that the responsibilities and undertakings in the document are realistic, timely, it is clear who can implement it and how much money or time will be needed to put them in effect.
3. **Plan for follow up:** The adoption of an action plan, which details the specific commitments and includes provisions regarding actual activities, responsibilities, timeline and funding, can facilitate successful implementation. In addition, it is recommended to have evaluation and monitoring plan so that the parties can periodically assess the implementation and make necessary changes/adjustments to ensure that the commitments are put in place.

IV. INSTITUTIONAL MECHANISMS FOR COOPERATION

4.1. Background



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There is an increased interest among public authorities to consolidate cooperation through creating permanent platforms for sustainable partnership with CSOs, usually referred to as “institutional mechanism for cooperation”.

Offices, departments and contact persons for cooperation

The institutional mechanisms may take various forms and play multiple roles. Many governments decided to set up a separate office or department with the main mandate to foster cooperation with CSOs. These offices do not only serve as liaison bodies but can be powerful leaders in providing strategic directions on how to develop the overall civil society sector and ensure the involvement of CSOs in the policy-making. The actual tasks of these bodies vary country by country and largely depend on when a body was established and whether a country has other institutional mechanisms of cooperation in place. They may be responsible for the preparation of government strategies for cooperation with CSOs and monitoring their implementation; building the capacity of both CSOs and state officials through organizing events, preparing publications; initiating and maintaining dialogue with CSOs and public authorities through various methods (maintaining website, database etc.); initiate the adoption of laws, regulations and policy documents affecting the legal and fiscal environment of CSOs and monitor their implementation; administer and assess state funding of CSOs. In addition, the offices for cooperation provide logistical and other support to the work of advisory government bodies (councils) responsible for civil society development. The offices for cooperation are equipped with diverse human and financial capacities; in some countries the office consists of only a few people¹⁸ while in other cases the staff is relatively big (nearly 20 people¹⁹).

Some countries have contact persons or department for CSOs at ministerial level. Such persons/departments can be instrumental in the process of implementing state policies concerning the development of the sector. When a civil society compact or strategy needs to be enforced, they can be assigned to coordinate the implementation of the concrete tasks within the line ministry.

Contact persons and offices for cooperation exist not only in governmental level but also in parliament. Assigning a contact person, setting up body within the parliament responsible for civil society issues, or creating a mechanism for involving CSO representatives in parliamentary committees can facilitate the participation of CSOs in the legislative process.

Cross sectoral advisory bodies

¹⁸ Montenegro

¹⁹ Croatia



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The highest level of participation is when the representatives of the CSOs share a seat at the table with the government representatives. Such active participation may materialize in the form of advisory bodies established to focus on cross-sectoral issues affecting all CSOs (also known as councils for civil society development) or subsectoral issues affecting one of the areas of CSOs' activities.

The councils for civil society development have a consultative, proposer and opinionating role and can initiate discussion on issues pertinent to civil society. They generally play an important role in monitoring public policies affecting civil society development and cross sector cooperation; influencing legislative agenda and providing inputs to draft law pertinent to CSOs; and encouraging cooperation between the public authorities and CSOs.

Being cross-sectoral bodies the councils consist of both CSO representatives and state officials. The representatives of the public authorities are usually delegated by various line ministries while the CSO members can be selected various ways. Sometimes, as in the case of Estonia, the body can be composed also of members of parliaments. The CSO candidates oftentimes need to meet certain qualification criteria and represent different subsectors of civil society. The numbers of members, their mandate and the frequency of meetings may differ country by country.

4.2. Examples from Europe

Among the various offices for cooperation in Europe the Office for Cooperation with NGOs in Croatia and the Office of the Third Sector (renamed as Office for Civil Society following the 2010 general election) in the United Kingdom do most likely have the longest history and most notable influence on civil society development so far. The Croatian Office for Cooperation with NGOs is part of the decentralized model that build up a coherent institutional and legal framework for cross-sector cooperation and funding of CSOs. The other two pillars are the National Foundation for Civil Society Development and the Council for the Development of Civil Society (*see below*).

Besides Croatia and the United Kingdom, office for cooperation exists *inter alia* in Bosnia and Herzegovina²⁰, Macedonia²¹, Montenegro²², Serbia²³, Poland²⁴ and Estonia²⁵.

In addition to these offices there are examples of other bodies (offices, departments) within the government/ministries which foster collaboration with CSOs. These bodies, however,

²⁰ Department for Cooperation with Civil Society

²¹ Unit for Cooperation with NGOs

²² Office for Cooperation with NGOs

²³ Office for Cooperation with Civil Society

²⁴ Department of Public Benefit

²⁵ Local Government and Regional Affairs Department



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are primarily confined to certain fields and activities (e.g., registration of CSOs, EU accession) and have modest role in cooperation with CSOs. As an example, in Turkey the Department of Association is primarily responsible for the registration and supervision of association but they also provide technical assistance and trainings to CSOs; launch and invite CSOs to public consultations; promote funding opportunities to CSOs; undertake research on best practices of CSO-Government cooperation etc. Similarly, the Directorate for Civil Society, Communication and Cooperation facilitates communication with CSOs but related to one specific area, the EU accession process.

Besides the offices for cooperation contact persons are working in all line ministries to foster collaboration with CSOs *inter alia* in Bosnia and Herzegovina and Macedonia. Contact persons and offices for cooperation in parliament are currently relatively rare but we may find examples in Estonia.

The number of councils established for civil society development has significantly increased in the past few years across Europe. Currently, such bodies exist, among many other countries, in Croatia²⁶, Latvia²⁷, Montenegro²⁸, Moldova²⁹, and Poland³⁰ and are planned in Serbia and Macedonia.

4.3. *Examples from the MENA Region*

There are a number of Ministries, offices, or departments in the MENA region to promote cooperation between civil society and the government. Morocco established a Ministry in Charge of Relations with Parliament and Civil Society. Libya established a Ministry of Culture and Civil Society, and also established Civil Society Support Centers in three cities in Libya. Iraq's federal and regional laws created an independent NGOs Department, based in Baghdad and Erbil, respectively. These Departments are charged with supporting cooperation with, and overseeing the registration of, NGOs.

4.4. *Keys to success*

Despite the diversity of the various institutional mechanisms there are some common preconditions which are key to successful operation.

1. **The necessary conditions are in place:** In order to be successful, the institutional mechanism for cooperation needs to have a clear mandate, a place in the

²⁶ Council for Civil Society Development

²⁷ Council for Implementation of the Cooperation Memorandum between Non-governmental Organizations and the Cabinet of Ministers

²⁸ Council for Cooperation between Government and Non-governmental organizations

²⁹ National Council for Participation

³⁰ Council for Public Benefit Activity



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- government's/parliament's structure which will give it a leverage, sufficient and preferably separate funding line, committed leadership, and competent staff.
2. **Decentralization of the cooperation:** It is important that the collaboration is not centralized in one office, otherwise, it may compromise and neglect the diversity of needs and opportunities for collaboration between various ministries and CSOs working in their field of activities (e.g., social sphere, environment). This can be avoided by encouraging cooperation with line ministries, through separate focal points.
 3. **Commitment and ownership of both CSOs and the government/parliament:** Institutional mechanisms that do not enjoy the recognition and support of the government or parliament are functioning formally and unable to maximize their potential. Similarly, institutional mechanisms that collaborate with CSOs are better accepted by the sector and are more efficient in fulfilling their task. Therefore it is important that the Office is led by enthusiastic, competent and knowledgeable person about the sector, which has the drive to lead the processes inside the institution and in the same time, openness to bring in the sector.
 4. **Periodic review of the implementation:** The institutional mechanisms create conditions for a more sustained partnership with CSOs, however, it is essential that a mechanism is periodically reviewed in order to ensure proper implementation and allow for necessary adjustments. In order to do so there is a need to develop tools to monitor the implementation.

V. ***GOVERNMENT FUNDING FOR CSOs, WITH THE FOCUS ON CIVIL SOCIETY FUNDS***

5.1. ***Background***

Governments throughout the world recognize the value of vibrant and sustainable civil societies and ready to invest in CSOs to ensure citizen participation in government decision making and to create partners who are capable of delivering efficient and cost effective social services to the population.

The government may provide support through various direct and indirect forms. Indirect support oftentimes include tax benefits, such as tax benefits/exemptions from corporate income tax, value added tax, gift and inheritance tax etc. Some countries³¹ introduced so-called “percentage mechanism” where the citizens (and in some cases corporates³²) are entitled to designate certain percent of their income tax to a nonprofit organization.

³¹ Hungary, Latvia, Lithuania, Slovenia, Slovakia, Poland

³² Slovakia, Moldova is currently introducing the system for both corporates and individuals



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Besides the various types of indirect benefits governments support CSOs through direct forms as well. State funding schemes in general reflect a certain governmental policy and may offer financial support and/or in-kind support. In-kind support may be given to the CSO in the form of goods or services, such as computers, software, training or the usage of public property for free or at low cost. The states provide financial support to CSOs usually in the form of grants but also in contracts. In addition to the state funding provided by the ministries many governments have set up separate institutions whose purpose it is to provide a funding framework that ensures development of the civil sector. These institutions take on many different forms: some of them are clearly established under public law (fund, agency) while others have a mixed feature- founded by a state institution in a legal form under private law (foundation). Civil society funds are generally established as part of a comprehensive strategy for improving civil society and its relationship with the government and citizens when governments recognize the lack of sufficient financial resources available for the development of the sector.

The defining characteristic of most civil society funds is that they provide institutional grants rather than project-based grants. Institutional grants invest in the organizational development of individual organizations, in sector-wide initiatives, and in innovative but unsolicited project ideas. In addition, civil society funds contribute to the development of the sector through various activities such as trainings, seminars and researches.

The funding practices differ from country to country- some of the funds provide small grants to thousand of CSOs³³ while others focus on strategic areas to maximize the impact of the financial support³⁴.

Despite the fact that most civil society funds receive their core funding from state budget allocations, they function with certain degree of independence from the government. The internal governing structure of the funds generally compose of a strategic decision-making body, an executive body (executive director) and the staff ("bureau") supporting the administration of the funds. The strategic decision-making bodies (supervisory board/management board/council etc.) are usually composed of both civil society representatives and government officials which allows for the government to oversee the process but at the same time to make autonomous decisions in regard to the priorities and the activities of the funds. The grant making procedures are undertaken by permanent bodies or temporary bodies set up for a specific call and experts and CSO representatives are generally involved in the quality assessment of the applications. When deciding whether to give a particular grant, funds must conduct an open and transparent competition in compliance with detailed procedures on advertising the grant, technical and substantive requirements, and the specific timelines.

³³ Like Hungary where more than 12.000 contracts were signed in 2010.

³⁴ Like the Croatian Foundation which supports less –around 200- CSOs with relatively higher amounts.



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5.2. *Examples from Europe*

In Europe civil society funds exist in various countries, including in Albania³⁵, Azerbaijan³⁶, Croatia³⁷, Estonia³⁸, and Hungary³⁹. The National Foundations in Croatia and Estonia are considered the most innovative and successful models and their experiences are often used in setting up similar funds in Europe and beyond. Several countries have been considering the possibility to set up a civil society fund, including Ukraine and Moldova.

5.3. *Examples from the MENA Region*

In the MENA region, civil society funds exist in several countries, including Jordan, Morocco, and the Iraqi Kurdistan Region. In Morocco, any association that receives public benefit status can apply for annual public support from the fund. In the Iraqi Kurdistan Region, the Law of Non-Governmental Organizations contains a funding mechanism, through which the Kurdish NGOs Department awards funds directly to NGOs in a competitive evaluation process. The Government of Jordan, through various Ministries administers several funds. Jordan's Ministry of Planning and International Cooperation (MOPIC) administers the *Quodorat* Program, which provides funding to community based organizations (CBOs) to help improve economic conditions in the poorest areas of Jordan. Jordan's Ministry of Political Development also administers a fund through which it aims to advance a strategic partnership with CSOs to increase citizen participation in sustainable development.

5.4. *Key to success*

Based on the existing civil society funds/foundations we can draw some initial conclusions on what are the preconditions for their successful operation:

1. **Developing the fund in a participatory process:** The involvement of the CSOs is important to promote feeling of ownership, create wider legitimacy for the establishment of the fund, channel in the real needs of the sector, and identify the funding priorities.
2. **Clear strategy:** It is inevitable for all funds to have a clear strategy on how they aim to achieve their main objective, including the short and long term priorities.

³⁵ Agency for Support of Civil Society (2009)

³⁶ Council on State Support to NGOs (2007)

³⁷ National Foundation for Civil Society Development (2003)

³⁸ National Foundation of Civil Society

³⁹ National Civil Fund (2003)/National Cooperation Fund (2010)



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3. **Independence and CSO representation**: Even if the civil society fund is a public funding entity, it is important that it has a high level of independence and a democratic governing structure where the CSO representatives have a major say in the decision-making. Therefore it is necessary to set certain professional criteria and detailed conflict of interest rules in the law or the governing document of the fund which will ensure that CSOs who have an interest into or can benefit from the topic of discussion (policy or grant) are excluded from making a decision about it.
4. **Sufficient and stable income**: It is essentially important to provide sufficient assets for the establishment of the fund and constant and predictable income throughout its operation in order to ensure continuous and independent functioning. In addition, the fund should be allowed to raise funding from other sources. However, the establishment of the funds shall not result in withdrawal of funds from other state bodies to CSOs but it should complement the existing state funding sources.

VI. *CSO PARTICIPATION IN POLICY-MAKING*

6.1. *Background*

CSOs play an important role in aggregating citizens' voice and advocating for policy changes. They allow citizens to organize themselves and express their legitimate interest more effectively as well as to influence the policies and laws that affect their lives.

The importance of public participation in policy and law making has been recognized globally. Major intergovernmental organizations have produced documents and created models to support and strengthen citizen participation⁴⁰. Although some of these documents are not legally binding, they lay down standards, principles and best practices which should be considered in initiatives on national level.

There are different stages in the process of policy and law-making resulting in different levels of participation. Those include:

1. **Access to information**: it means that the public authorities should inform the public about plans and the types of documents they want to adopt at the beginning of the process, highlights the right of the public to have access to all information (e.g., drafts, comments and reasoning) throughout the process.
2. **Consultation**: is a form of participation where the public authorities invites the broader public (CSOs, interested individuals, concerned groups) to provide their opinion, comments, views and feedback on a specific document.

⁴⁰ United Nations- Aarhus Convention (1998), OECD- Citizens as Partners: Information, Consultation and Public Participation (2001); Evaluating Public Participation in Policy Making (2005), Council of Europe- Code of Good Practice for Civil Participation in the Decision-making Process (2009).



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3. Active engagement through dialogue and partnership: means collaboration and jointly undertaken responsibilities at all stages of the decision-making process (agenda setting, issue identification, drafting, decision and implementation); it may be described as a situation where the representatives of the public share a seat at the table with the government representatives.

On national level the procedures and rules for citizen participation may be regulated in legally binding documents (laws, regulations) and in documents with no binding measure (codes, standards). Certain aspects of citizen participation are regulated in laws on freedom and access to information, laws regulating the legislation process, specifically laws on participation in legislation and in case of local participation, and the law on local self-government.

6.2. Main standards and examples from Europe

Law regulating citizen participation and access to information exist in most (if not all) countries across Europe. Recently, the adoption of the new Law on Access to Public Information in Ukraine was a notable success and was rated as one of the top ten laws on access to public information among 89 countries according to Right to Information Rating of the Centre for Law and Democracy.

Legally binding documents regarding consultation and active participation have been adopted in Bosnia and Herzegovina (rules of government), Hungary and Romania (stand-alone law).

Besides, the nonbinding documents have an extensive practice and significant effect in the old Member States and they are gaining more and more space in the Central and Eastern European region as well. United Kingdom is an outstanding example for the adoption of non-binding documents and the Code of Practice on Consultation proved to be a very effective means for setting minimum standards for cooperation. Other countries which have codes and guidelines include Austria, Croatia and Republika Srpska.

The review of the documents from European countries shows that there is a general framework concerning participation which is common for most and which outlines important standards that should be followed. Some of those standards include:

1. Everybody should be informed and consulted in the process of law drafting.
2. Participation of the public may be limited in case of special working groups, but the members to the groups should be selected through open criteria.
3. Participation should be open to different groups (minorities, people with disabilities, women).



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4. In case of situations where the process cannot be fully participatory (e.g., natural disaster, conflict), the process to be undertaken should be clearly prescribed and respect minimum standards of consultation (e.g., informed public, access to the draft; minimum time for opinions).
5. The draft should be published with clear, concise and comprehensive information about the topic, so that all parties can better understand the issue and give opinion.
6. The timeline allocated for comments or participation in public meetings should be determined on several factors including the type of document, the issues raised, its length, available expertise, the size of the target group it affects. Most commonly countries allow between 10-30 days for comments.
7. Feedback should be provided to all consulted parties to increase trust, to encourage the public to be more committed and take part in future processes. The feedback can be provided in a report of the whole process and should be part of the draft document.
8. Some countries plan for an assessment of the process of participation – this can help improve future processes and share experiences for creative models used.
9. Different tools and methods can be used to support participation at all stages of the drafting and implementation process (web consultation, working groups, roundtable discussions, focus groups).
10. Several measures can be undertaken to help prepare for the participative process and ensure that it will be executed effectively. For example, assigning coordinators who will facilitate the process and serve as contact person for the public and other ministry officials, or developing a list of interested parties to be engaged in the process.
11. Different internet and media channels should be used to ensure that the information about the launched process is distributed as widely as possible (e.g., web sites, newspapers, TV, CSO portals).
12. Some countries have set up central on-line registers which assist with the coordination and information sharing about the process, but also provide tool for the public to meet in one place and comment on various undertakings by the government.

6.3. Examples from the MENA Region

In the MENA region, the procedures and rules for citizen participation have been enacted in laws, as well as Constitutional provisions. Morocco's 2011 Constitution included several new provisions to promote greater public participation, including a guarantee to access to information, as well as guarantees that citizens have the right to submit motions and petitions. Morocco is still working on drafting legislation to implement these new provisions, but these provisions have the potential to expand, or at least protect, civil society's participation at different stages in the policy and law-making processes.



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Countries in the MENA region have adopted laws relating to access to information. In particular, Tunisia adopted a Law on access to information in 2011 and Yemen adopted a Law on access to information in 2012.

VII. CONCLUSION

In conclusion, an overview of various good practices in countries around the world, shows that public authorities and CSOs undertake steps to 'institutionalize' and further enhance their cooperation because through this they strengthen the concepts of open, collaborative and transparent governance. By cooperating, they engage in discussions on issues that influence the development of the society as a whole, and they complement efforts to ensure that citizens' needs are equally considered and satisfied.