



COUNTERBALANCING THE STATE

HOW CAN CIVIL SOCIETY PROMOTE TRANSFORMATION?



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Konrad-Adenauer-Stiftung, Brussels

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PREFACE

Democratic Transition in Eastern Europe – The Role of Civil Society

Over four years, from 2013 until 2016, Konrad-Adenauer-Stiftung (KAS), together with seven strong local partner organisations, implemented a large scale EU-funded project in support of civil society in Eastern Europe. From a project office in Kiev it covered six Eastern Partnership (EaP) countries, namely Armenia, Azerbaijan, Belarus, Georgia, Moldova and Ukraine. ‘Strengthening Non-State-Actors’ capacity to promote reform and increase public accountability’ was the circuitous official title for which we developed a brief and handy ‘Civil Society – Dialogue for Progress’.

The political framework for the project was more than difficult, starting from the U-turn of Armenia in autumn 2013 that, after having negotiated with the European Union (EU) for years about an Association Agreement, suddenly decided to join the Russia-led Eurasian Economic Union; to the Moldovan bank fraud scandal in 2014/15 where basically overnight \$ 1 billion disappeared from three local banks which – since pro-European politicians were heavily involved – severely shook the confidence of ordinary Moldovans in the European path of the country. But of course the Ukrainian ‘Revolution of Dignity’ in 2014, followed-up by Russia annexing Crimea and waging war against Ukraine was and is the main factor impacting on developments in the region.

After three of the six EaP countries had signed an Association Agreement with the EU, including a deep and comprehensive free trade area in June 2015, it seemed that there will be two different speeds in the Eastern Neighbourhood with one group of countries – Georgia, Moldova and Ukraine – seeking a fast and sustainable

approximation to the EU and a second group – Armenia, Azerbaijan, Belarus – setting other priorities. One can question whether in such a situation the regional approach of the Eastern Partnership – embracing six different countries in one programme – is appropriate. Acknowledging the developments in its Eastern neighbourhood during the last EaP summit in Riga in 2015 the EU presented a review of the European Neighbourhood Policy (ENP) highlighting the importance of greater differentiation.

Differentiation and greater mutual ownership will be the hallmark of the new ENP, recognising that not all partners aspire to EU rules and standards, and reflecting the wishes of each country concerning the nature and focus of its partnership with the EU.

While it is not entirely clear what greater differentiation means for the region in practice, our project could see the added value of and found a high demand for regional exchanges between civil society actors from all six countries: regional conferences that KAS organised in Tbilisi in 2013 and in Chisinau in 2015 attracted huge audiences and found very positive feedback. This was also because the challenges that the civil societies in the region are facing are *cum grano salis* the same: hybrid, aggressive meddling by Russia, wide-spread corruption, lack of political will for reforms, dysfunctional political elites. We were happy to implement this challenging project to cooperate with many inspiring civil society partners and facilitate a couple of small-scale civil society success stories.

The articles in this brochure are based on the contributions from six leading civil society representatives during the closing event of the project in Brussels in November 2016. Under ‘(Counter)balancing the state: how can civil society promote transformation?’ in two panel discussions held on 30 November 2016 experts considered questions such as the necessary preconditions for effective CSO advocacy, the essential means

and resources for CSOs to 'recapture' the state from oligarchs or autocrats or external conditions, such as pressure from the EU and local civil society on governments to implement reforms. Needless to say, the elephant in the room was Russia with its destructive impact in the Eastern Partnership region and the EU's position on this.

In her paper on Ukraine Iryna Solonenko argues that – despite all set-backs and resistance from the old system – her country has seen more reform successes in 2015/16 than any time since Ukraine gained independence in 1991. She states that this is largely due to civil society's ability to take the initiative and interact with other actors in the country.

David Aprasidze joins Solonenko's conclusion on a positive note that since the first peaceful transfer of power in Georgia in 2012-2013, civil society has managed to establish itself as indispensable actor *vis-à-vis* the state and generally works in a positive regulatory environment, although he identifies a number of challenges that hamper sustainability and has its roots in the poor state of Georgia's economy and a *de facto* monopolisation of power by the ruling party.

Igor Munteanu draws a similar picture for Moldova. After a first honeymoon with a peak in signing an Association Agreement between the EU and Moldova in June 2014, this beneficial cooperation ended abruptly with the aforementioned banking scandal, revealing the high degree of corruption and lack of accountability still characteristic of the Moldovan political elite. In his view there is no easy fix. Despite initially successful reforms set some positive examples of civil society's role in shaping policy reforms, CSOs are still not a serious player in decision-making processes in the country.

Furthermore, mixed results at best can be stated concerning civil society's involvement in decision-making in Armenia. The dominant feature here is the ruling elite's lack of political will for

a wider dialogue with CSOs. Although the government is keen not to cut off ties with the EU, the current state of ambiguity after Armenia's U-turn in 2013 negatively affects civil society and increases the pressure on ordinary CSOs. On the other hand, powerful informal movements and spontaneous street protests, albeit with an unsustainable impact, were a dominant feature in recent years in Armenia.

Civil society in Azerbaijan and Belarus faces by far the greatest challenge in the region. In both countries the government's unwillingness to fulfil international obligations in the field of human rights and fundamental freedoms had a devastating impact on the development of civil society. Whereas Shahla Ismayil states that in Azerbaijan the situation deteriorated particularly after the crackdown on CSOs in early 2014, in the view of Vladimir Korzh and Maria Lando Belarus the non-governmental sector has been operating continuously in a hostile environment, with constant risks to its existence, for more than 20 years. However, given the difficult economic situation and increasing tensions in relations with Russia, Belarus' rapprochement towards the EU provides a small window of opportunity. Also, in the case of Azerbaijan, the author asserts that now is the right time for renewing the country's relationship with the EU. Since the golden decade of a 'blooming' economy is over following the drop in oil prices and given Azerbaijan's dependence on external financial aid, political reforms, including an improvement of the CSO environment, is conceivable in the event of consistent international pressure.

Despite rather gloomy prospects for democratic transition in the Eastern Partnership region, all authors come to the conclusion that the EU is still a player capable of having a positive impact on developments in the region. The EU's future leverage will, however, depend on clear conditions and better incentives provided for the national governments to truly embrace the European path. Given the recent political roll-

backs in the region, the EU must learn to better identify the geopolitical context, where the European vision of democratic transition is challenged by an assertive Russia promoting an authoritarian governance model based on endemic corruption. At the same time, the attractiveness of the Russian model should not be overstated: the acceptance of Moscow's grip over the region in many cases reflects a political calculation of the corrupt elites to preserve power and assets under all circumstances rather than being a statement for or against the EU.

Seen from this perspective, genuine and independent CSOs remain the true allies of the European Union in its Eastern Neighbourhood to raise the voice for democratic transition. The

future status of civil society as an influential player counterbalancing the state and promoting democratic transformation will determine countries' political model in the region as one of the authors has rightly stated. Consequently, the KAS remains committed to supporting independent civil society in Eastern Europe to promote democratic transformation and European rapprochement of their countries.

We wish you pleasant and stimulating reading.

**Stephan Melerius and
Sabina Woelkner,
Konrad-Adenauer-Stiftung**



Georgia's Civil Society in the Face of Domestic and External Challenges

David Aprasidze

LATEST STATUS: ACHIEVEMENTS

Georgian civil society is relatively vibrant compared to other countries in the region.¹ Since the late 1990s it has gradually acquired an important role in shaping public opinion and influencing political decision making. Relations between civil society and the state of the 1990s resembled the 'weak state – strong society' relationship pattern. The weak and corrupt Georgian state of 1990s was almost non-functional and highly unpopular. In this light, the newly emerged and better funded civil society organisations succeeded in attracting educated and skilled young individuals and gained popular support step by step. In 2003 civil society organisations, in an *ad hoc* coalition with leading oppositional parties, were the driving force of the Rose Revolution, removing the government of Shevardnadze and paving the way for the young government of Saakashvili. The CSOs played a key role in mobilising thousands of protesters in Tbilisi as well as in the provinces. Since 2004 the civil society of Georgia has suffered from brain drain, with dozens of prominent civil society leaders and activists moving to governmental and public offices. 2004-2009 relations between the state and civil society remained constrained and ambivalent. Even though there were several occasions of successful cooperation and the first foundations for

policy dialogue and state-funding mechanisms were laid, nevertheless the relatively weakened civil society was not capable of counterbalancing a stronger, more functional and assertive state. However, civil society again played a crucial role in ensuring the outcome of parliamentary elections in 2012 and continued to play a positive role during the first ever peaceful power transfer in 2012-2013.

In general, Georgian civil society operates in a positive regulatory environment. There are more than 21,000 registered non-profit organisations in Georgia.² However, the number of active NGOs does not exceed 1,000.³ The registration process of CSOs is very simple and friendly. However, the liquidation process involves complicated procedures related primarily to tax issues. This contributes to the high number of non-active organisations.

Regarding financial sustainability, important amendments were introduced to the Tax Code in 2013. According to the new regulations CSOs can request VAT exemptions on grants and donations. Grants from major donors are automatically VAT exempt based on existing intergovernmental agreements.

The Georgian government has committed itself to cooperate with civil society organisations and has created several dialogue mechanisms to involve civil society in the decision-making process. Memorandums of Understanding have been signed by the Georgian National Platform of the Civil Society Forum of the Eastern Partnership with the Parliament of Georgia and the Government of Georgia. At the national level, numerous advisory boards and working groups

1 According to the CSO Sustainability Index 2015 the leader in the South Caucasus is Armenia with 3.8 (1 the most enhanced and 7 the most impeded), and Georgia has a score of 4.1 score. According to the Nations in Transit 2016 report from Freedom House, Armenia scored 3.75 (1 for the highest level of democratic progress and 7 for the lowest), the same as Georgia. For Azerbaijan, the scores were 5.8 and 7 respectively. See United States Agency for International Development, Bureau for Europe and Eurasia; *The 2015 CSO Sustainability Index for Central and Eastern Europe and Eurasia* (2016): https://www.usaid.gov/sites/default/files/documents/1861/Europe_Eurasia_CSOSIRReport_2015_Update8-29-16.pdf

Freedom House, *Nations in Transit 2016*: www.freedomhouse.org/report/nations-transit/nations-transit-2016

2 *The 2015 CSO Sustainability Index for Central and Eastern Europe and Eurasia* (2016), p. 102.

3 See the database of active organisations at www.csogeorgia.org; The National Association of Local Authorities of Georgia, *Report on Status of CSOs in Regions of Georgia*, 2016: www.nala.ge/uploads/files/5790b08cb18b6.pdf

exist at ministries and national public agencies, where representatives from civil society are invited to participate as experts. The implementation of the EU Association Agreement sets new requirements for the Georgian government and creates new opportunities for civil society to enhance bilateral dialogue.

Over the years, CSOs have managed to create coalitions and lead several successful joint campaigns, influencing electoral, environmental, health care, as well as human rights issues. Civil society has succeeded in shaping public opinion and through that has indirectly influenced the public policy decision making process. Representatives of civil society are frequently invited by the media to express their expert views on different subjects. It is noteworthy that public officials and leading politicians participate in talkshows and public discussions aired in the media together with civil society representatives. Since 2012 the media climate has improved in general, thus creating more opportunities for civil society to increase its outreach.

LATEST STATUS: CHALLENGES

On the other hand, the long-term sustainability of civil society still needs to be strengthened due to a number of systemic problems. These problems can be grouped together as follows:⁴

Political challenges

The Georgian political system is a typical example of dominant-party politics. The ruling party dominates the political scene in Georgia. It is not effectively kept in check by the opposition. The latter succeeds in building temporary coalitions but remains weak in the long-term. Parliamentary elections of 2012 and the first peaceful transfer of power laid firm founda-

tions for a multiparty landscape to emerge in the country. Despite these positive expectations, the 2016 election results did not produce a multiparty parliament and have consolidated the power monopoly of the current ruling party – the Georgian Dream. The Georgian Dream has a constitutional absolute majority in parliament and controls all elected regional and local councils nationwide. The weakness of the political opposition limits the political space for civil society. In order to achieve its objectives, the latter has to seek close cooperation with representatives of the ruling party and coalition-building with the opposition as a tool of pressure often proves to be counterproductive. Overall, the government is open towards civil society. Nevertheless, on occasion acting or former representatives of the government criticise leading CSOs and their leaders and accuse them in being politically biased and allied with the opposition.⁵

Socio-economic and socio-cultural challenges

The upper middle income economy of Georgia is unstable. The country is dependent on foreign investments, including money transferred by Georgians working abroad. Since the end of 2015 the country remains in a permanent currency crisis: the Georgian Lari has lost more than 30 percent of its value. Even so, the currency crisis has not yet impacted CSOs directly, but it is having a negative impact on overall economic and social environment.

Foreign donors remain major sources of funding for CSOs in Georgia. In the current currency crisis, this factor is having a temporary positive effect on the financial stability of CSOs, because the main receipts are in foreign currency, either in US dollars or euros. However, the announced plans of the government to restrict financial trans-

⁴ For detailed analyses see Shorena Lortkipanidze and Tamara Pataraiia, *Mapping Study of Civil Society Organisations’ Engagement in Policy Dialogue in Georgia*, October 2014: www.csdialogue.eu/sites/default/files/mapping_study_of_engagement_in_policy_in_georgia.pdf; Gemma Piñol Puig, *Situation Analyses of Civil Society*, Europe Foundation, 2016: www.epfound.ge/wp-content/uploads/2016/12/Situation-Analysis-of-Civil-Society-in-Georgia.pdf

⁵ Freedom House, *Nations in Transit 2016*.

actions and deposits in foreign currencies, as an attempt to minimize the currency crisis, might undermine this short-term advantage as well.

Overall, the availability of domestic funds is very limited. During recent years, various national governmental agencies have started to award grants to CSOs;⁶ however, there is no systematic and transparent state-funding mechanism in place and the scope and scale of grants remain limited. Civil society does not exploit funding sources to the full within the private and public sectors. Corporate and community-based initiatives and donations are rare. However, recently several CSOs and business corporations have created a joint platform and are engaged in some common activities.⁷ Nevertheless, business in Georgia is more interested in supporting one-off charity events aimed at the social needs of individuals than in long-term initiatives of civil society, especially in fields such as human rights or political transformation.

In general, Georgia, as a post-authoritarian society, has limited experience with participation and volunteering, and the social capital remains low. Overall, despite some improvements during recent years, public trust in CSOs remains limited. In 2015, only 22 percent of Georgians trusted CSOs.⁸ At the same time, the new Law on Volunteerism, initiated and promoted by one of the leading Georgian CSOs – the Civil Society Institute, was successfully adopted by the parliament in 2015.

Sector-specific challenges

Georgian civil society is mostly dominated by registered non-governmental organisations. Other non-state players (professional associations, labour unions, sport unions, faith-based organisations) are not associated with civil society in pop-

ular perception.⁹ The influential CSOs represent only a thin layer of society in general, and thus very often have an elitist flavour, separating them from ordinary citizens.

The next sector-specific problem is an urban-rural divide. Strong CSOs are concentrated mostly in the capital city of Tbilisi and some relatively big cities, such as Batumi and Kutaisi. Citizens in rural areas, including those populated by ethnic minorities or in remote mountainous zones, lack the ability to find sources and organisational capabilities as well as awareness about their needs and rights.

Further specific challenges to the sector are the organisational capacities of CSOs. They do have declared transparent organisational policies but often they are not implemented in full. Even relatively established organisations have internal democracy problems. Many of them are effectively one-person organisations, where real decision making power rests in the hands of one person, typically the founder of the organisation. In general, CSOs have accountability problems towards their constituencies and other stakeholders in the broader public. Accountability is mostly restricted to the immediate donors of organisations. Because of their financial instability, most organisations do not specialise, nor do they try to fit donors' requirements and agendas.

LOOKING AHEAD: EXTERNAL CHALLENGES AND THE EU

The external environment for further democratisation of Georgia is tending to deteriorate: authoritarian regimes consolidated some time ago in Russia and Azerbaijan; Armenia is lurching in the same direction; authoritarian tendencies in Turkey – a leading trade partner and once po-

6 Among others following agencies are issuing grants for CSOs: Ministry of Justice, Ministry of Youth and Sports, Ministry of Labour and Social Policy, Central Election Commission.

7 See CSR Club Georgia: www.csclub.ge/index/en

8 *The 2015 CSO Sustainability Index for Central and Eastern Europe and Eurasia (2016)*, p.109.

9 Even though, the Georgian Orthodox Church is the most influential counterforce to the state with constantly high approval rates in the society.

litically the most open neighbour of Georgia – is increasing ‘authoritarian pressure’ in the region. Coupled with de facto monopolisation of power by the ruling party within the country, political conditions are rather unfavourable for a democratic transition and thus for further development of civil society in Georgia.

The EU is almost the only remaining external player still capable of influencing the development of civil society and exerting positive pressure the government to remain committed to the principles of good and accountable governance.¹⁰ However, the question remains open to what extent and under what conditions the Georgian government will be willing to follow the EU’s recommendations and implement EU-induced policies in the future.

The past years of the European Neighbourhood Policy have proved that conditionality can produce the desired result even within the neighbourhood, i.e. a non-enlargement approach; however, this only happens when there is ‘a commitment by partners to such reforms.’¹¹

So far Georgia has shown genuine interest in implementing both democratic governance and sectoral policy reforms. The Association

Agreement and Deep and Comprehensive Free Trade Agreement (DCFTA) offer a solid legal basis and political and economic leverage for the EU to continue influencing the Georgian government in this direction. However, the EU must understand the worsening regional context for democratic transition and existence of an alternative integration model promoted by Russia. The national governments in partly-free countries, and Georgia belongs to this particular group, are pursuing their political agendas of survival. On the one hand, the fight for voters they are genuinely interested in adopting and implementing certain policy reforms aimed at tangible outcomes for their citizens. On the other hand, they are very reluctant to implement reforms that potentially could undermine their own power base. They also react very sensitively to external challenges to their power. Under deteriorating regional prospects for democracy, the Georgian government needs more clear conditionality as well as more incentives from the EU not to stray from their present policy path. At the same time, the EU needs to speak directly to all major stakeholders inside the broad public in Georgia – the CSOs and media as its traditional target groups, but also increase communication with other representatives of civil society, business, faith-based institutions and youth.



10 At this moment, the official policy of the new US administration *vis-à-vis* the region is rather unclear.

11 Joint Communication to the European Parliament, the Council, the European Economic and Social Committee of the Regions, *Review of the European Neighbourhood Policy*, Brussels 2015: www.eeas.europa.eu/archives/docs/enp/documents/2015/151118_joint-communication_review-of-the-enp_en.pdf

How Can Civil Society Promote Transformation? The Case of Azerbaijan

Shahla Ismayil

Being one of the new independent countries, but having been known mostly for its abundant oil and gas resources, Azerbaijan's international image in the world has always been contradictory. On one hand, the country is the party to numerous international documents and treaties. It is an active participant of various international development for a and is a member of the United Nations, OSCE, Council of Europe, WHO, IMF and other international and intergovernmental organisations and platforms. On the other hand, the reality in the country regarding political, social, economic development leaves much to be desired. Despite GDP growth in the last two decades, the economy of Azerbaijan remains largely dependent upon the extraction and production of fossil fuels. Deeply rooted corruption in combination with the lack of a solid diversification strategy and little focus on improving the overall system of central and local self-governance, including streamlining inter-institutional relations – have undermined Azerbaijan's chance to benefit from a participatory and democratic approach to development. This caused rapid and intensive urbanisation and migration processes in the country, leaving the regions not only undeveloped, but also unattractive for the local population. Migration to neighbouring countries has led to a whole chain of consequences, among which are a brain drain and lack of social cohesion. Meanwhile, the twofold devaluation of the national currency in February and December 2015, followed by significant reductions in the state budget, caused unemployment to rise in 2016. Moreover, a marked decline in the financial status of working migrants in neighbouring countries, especially in Russia,

have resulted in a significant reduction in money they sent back to Azerbaijan from Russia, adding to the current economic challenges and fuelling the potential for social unrest in the country.

In parallel, Azerbaijan's unwillingness to implement international obligations in the area of human rights and fundamental freedoms has not only exacerbated its poor human rights record in the country, but has also increased security threats and challenged the very existence of the state. The rejection of democratic principles and the eradication of moderate, secular, and liberal democratic voices in a majority Muslim society serves to bolster religious radicalism as a viable alternative. With the intention to secure the longevity of the regime, Azerbaijan's government held five constitutional referendums (1993, 1995, 2002, 2009, 2016), ending up with 29 constitutional amendments in the latest 2016 controversial constitutional referendum that resulted in the creation of the office of the Vice President and extended the presidential term from five to seven years. While the necessity and feasibility of the constitutional amendments were broadly debated for contradicting the international standards, the first much publicised appointment took place – on 21 February 2017 Azerbaijan's First Lady was appointed to the position of First Vice President. The overwhelming majority of civil society and international organisations condemned the move, referring to this appointment as a blatant case of spousal nepotism. Local opposition political parties are weakened to the extent of offering a minimum reaction only.

Meanwhile, in Europe a new organisation of Azerbaijani political refugees – Azerbaijan Needs Democracy (AND)¹ was founded in September 2016, uniting a number of political activists, journalists and former government officials and human rights activists who had been forced to leave Azerbaijan at various times because of persecution by the authorities. Having been regarded as the Azerbaijani political opposition abroad,

¹ 'AND' in Azerbaijani language means 'oath'.

AND is assumed to have a significant influence on forming opinions of the international community, namely, UN Agencies, OSCE, Council of Europe, European Parliament, on the situation in Azerbaijan.

In the meantime, civil society in Azerbaijan has experienced its worst years since early 2014. The unprecedented crackdown on media and CSOs, which is believed to happen out of fear that foreign-backed organisations could be plotting a revolution in Baku, modelled on the Arab Spring in 2011 or the mass street protests in Ukraine in February 2014. According to the USAID CSO Sustainability Index Report, the 2015 index for Azerbaijan worsened from 5.1 to 5.8 ('sustainability impeded' status), marking the Year 2015 as the worst one for NGOs in the last 12 years. More than 50 large local CSOs and a number of international NGOs including IREX, IFEX, NDI, Oxfam, Counterpart International, World Vision and Save the Children had to halt their work in Azerbaijan and about 1/3 of local CSOs suspended their operations in the period 2014-2016.

The so-called 'NGO case' (criminal case No. 142006023), opened in 2014 to give law enforcement a reason to interfere in the activities of CSOs, interrogate activists, ban travel of CSO leaders, seize assets, freeze bank accounts and intimidate CSOs' affiliates, including participants in events, remained open, although according to the Criminal Procedural Code of Azerbaijan, once open, even the most serious criminal case may not last more than 19 months.² Although the case was not referred to in 2016 as intensively as in previous two years, still its 'open' status for almost 3 years illustrates the ready possibility to use the case as leverage for silencing critical voices. Occasional investigations, interrogations, penalties, travel bans and customs checks at border controls remain in place for the most critical voices. In a restrictive operational environment and

with limited funding opportunities the remaining CSOs had to significantly cut back their operations, apply self-censorship and diminish advocacy efforts. Some CSOs became affiliated with the government, shifted their focus to non-sensitive topics, left the country, or exited the sector. As a result, very few independent CSOs, most of which are represented by their leaders only, remained in Azerbaijan, although formally by the end of 2016 the number of registered CSOs – including non-governmental organisations (NGOs, which include foundations and public unions) and other entities – reached 4,300.

Thus, CSOs, which worldwide are admired for the passionate commitment to their mission and their inventive approaches to addressing urgent social problems, in Azerbaijan are experiencing the dilemma of mere survival – thousands of organisations have lost their offices, equipment, and employees. It happened because drastically amended legislation has severely impacted the operating environment for CSOs, resulting in an extreme decline in access to funding, and therefore has affected CSO sustainability in all dimensions, including their organisational capacity, financial viability, advocacy, service provision, infrastructure, and public image.

Since in Azerbaijan CSOs are mostly associated with their leaders, the period of 2014-2016 was uneasy for them also. As a matter of fact, the outspoken leaders of independent CSOs also face the dilemma of survival in three dimensions – physical, financial and moral. While it is clear with the first two dimensions, the third one is the most serious as it is hard to identify the real independent status of CSO leaders nowadays. The gap between GONGOs, as well as their 'progenitors', and independent NGOs became much bigger as their evolution became inversely proportional – the stronger the former became due to their extensive access to funding and state support in the year

² Article 218, clause 218.10.4 of Criminal Procedural Code of Azerbaijan.

prior to crackdown, the more visible and more vulnerable the latter became for demonstrating their outspoken position. Having labelled them as pro-oppositional, the government fully closed the door and stopped engaging independent NGOs in any form of policy dialogue. This labelling was aggravated when independent NGOs attracted international attention and financial support from foreign donors. Critical reports, preceded by monitoring and investigations, of foreign funding fuelled the aggression of the government and resulted in severe harassment of CSOs, especially human rights organisations and human rights defenders, rating them as ‘foreign agents’, as well as of foreign donors and international organizations as such. Thus, similar to CSOs, their leaders became affiliated with the government, shifted their focus to non-sensitive topics, left the country, or exited the sector completely.

It now remains to be seen if there is space for the remaining civil society actors to participate in decision-making processes in the country. Taking into account that CSOs, which tend to be referred to as NGOs in the country, have always been viewed with suspicion because the name ‘non-governmental’ is regarded as synonymous with ‘anti-governmental’, one can understand that this fundamental misunderstanding of the terminology caused a negative approach towards NGOs by both the government and the general public from the very beginning of the emergence of the third sector.

In addition, civil society was the last sector where the intellectuals who wanted to remain in the country could find the space to operate. But if before 2014 it was difficult for an independent CSO to become registered and operate, after the crackdown it became practically impossible. The CSO sector, which used to reflect the diverse range of organisations working in the area of human rights, culture, education, healthcare, democracy, environment, women’s rights and gender equality, economics and entrepreneur-

ship, conflict transformation and peace-building and youth, and which years ago was able to effectively improve legal amendments to juvenile justice, alimony terms, volunteers, public participation, trafficking – currently has de-facto lost its power to influence decision-making and policy dialogue processes in the country, although participation per se occurs occasionally.

Also, participation of CSOs in the policy dialogue process is subject to a highly centralized decision. Naturally, the level of CSO access to the central and local authorities, and Parliament depends very much on the category a particular CSO belongs to, whether independent CSO or pro-government CSO. Although there were great expectations of the Law on Public Participation, adopted in 2014, as presenting the biggest potential to foster policy dialogue, its implementation is very slow, weak and biased. Very few independent CSOs get seats in these councils, even once they are established, although the Law was supposed to stipulate the participation of CSOs in the Public Councils to monitor the work of central and local authorities.

Obviously in such a situation the power of civil society to foster transformation and reforms in the country is equal to zero. Having failed to establish strong solidarity platforms and unable to protect its public image, the CSO sector in the country had to significantly cut back operations, censor criticism and diminish their international advocacy scope. With the reduction of supporting initiatives of domestic and international stakeholders, the CSOs underwent certain transformations – working silently, focussing on non-sensitive topics, becoming GONGOs, leaving the country, changing or even exiting sectors. A maximum of 200 CSOs leaders can be cited as the remaining vocal independent voices of civil society, which also use less visible ways of articulation because of the risk of being closed or intimidated. Research and investigations, assessment and road-mapping, lobbying and advocacy, monitoring and publication of alterna-

tive reports – are implemented only backstage; for security reasons CSOs sacrifice their visibility and branding. The unwritten ban on organising events in public venues (hotels, conference centres, rented offices) in both Baku and the regions is stronger than ever, minimizing the chance of CSOs to reach their constituencies. Social media and online television became the main substitutes for CSOs to speak out and to reach out to the wider public, but that platform is not sufficient to rehabilitate the reputation and to reach out to their main constituencies. The CSOs have to censor their standpoints strictly as the new law of November 2016 criminalising ‘online defamation or derogation of the honour and dignity’ of President Aliyev is interpreted as a strong message to critical voices and is aimed at closing down the last space for Azerbaijani people to freely express themselves.

As a result of the CSO and media crackdown in September 2015 the European Parliament adopted its resolution on Azerbaijan, containing 24 clear recommendations, among which recommendation nine calls the government of Azerbaijan to ‘immediately end its crackdown on civil society and human rights work, ensuring that independent civil society groups and activists can operate without undue hindrance or fear of persecution, including by repealing the laws severely restricting civil society, un-freezing bank accounts of non-governmental groups and their leaders, and allowing access to foreign funding’. Moreover, Azerbaijan’s status in Open Government Partnership (OGP) was made inactive in May 2016 and the country became ineligible to vote in OGP elections due to unresolved constraints on the operating environment for CSOs. The government of Azerbaijan, which has participated in OGP since 2011, has a maximum of one year to address the concerns in relation to the operating environment for CSOs. This was a blow to the public image of the government, which already experienced a similar case in April 2015 when the International Board of EITI, for the first time in its

history, validated Azerbaijan against the 2013 EITI Standard and consequently Azerbaijan’s status at EITI was downgraded from ‘compliant’ to ‘candidate’ status for its crackdown on CSOs and the media. Later, on 9 March 2017, EITI fully suspended Azerbaijan’s membership, citing the lack of progress in the area of implementation of EITI’s recommendations most of which were related to rehabilitation of the space for civil society and donors; however, the Azerbaijani government immediately issued a statement on the country’s withdrawal from EITI.

However, the opinion of the domestic human rights community and political figures is split between those who actively advocate sanctioning Azerbaijan through suspending the country’s membership in important platforms, while the second group insists on keeping Azerbaijan on board as a tool to leverage the country’s international obligations. The first group is receiving support from some international organisations, which call on the international community to maintain a principled stance in order to defend transparency in Azerbaijan and uphold high standards.

The hostility between the two groups increased with the launch of the Dialogue Platform of State and Civil Society for Promotion of OGP in September 2016, created in coherence with the new 4-year action plan of Azerbaijan in the field of OGP. The stone of contention is the composition of the Platform, which included nine state agencies and 31 CSOs, predominantly consisting of pro-government organisations (with the exception of a few CSOs) and ignoring the wish of a bigger group of independent CSOs to take part in the OGP Platform, expressed earlier in August 2016.

The government, meanwhile, keeps portraying any critics as Western interference in the country’s internal affairs and blames the West in applying double standards. The relation between the USA and Azerbaijan has been damaged

by the critical standpoints of several political figures, such as the Congressman Jim McGovern, co-sponsor of the ‘Global Magnitsky’ and ‘Azerbaijan Democracy’ Acts, who expressed his deep concern over the latest repression of journalists and civil society activists ahead of a key referendum in Azerbaijan and mentioned ‘there has to be consequences for corruption and human rights violations’ following the 2016 hearing called ‘Azerbaijan: Do Human Rights Matter?’, which focused on the country’s current human rights situation, and US policy.

For the moment the European Union (EU) is seen as the key stakeholder in the country that can foster changes and influence the master game. In the context of the European Neighbourhood Policies (ENP) revised in 2015, some new perspectives have been opened up through a more realistic perception of the importance of the political will of partner countries, including Azerbaijan. Setting differentiation and mutual ownership as the hallmark of the new ENP, the EU reinforced the importance of reforms to ensure rule of law, social justice and increased accountability and underlined the necessity of deeper engagement with civil society and social partners. Taking into account the latest progress report on Implementation of the ENP in 2014 the recommendation ‘creating a more conducive political environment for civil society, in particular making the related legal framework less restrictive, allowing civil society organisations to carry out their activities’ can hardly be overlooked by either of the parties in mapping out further partnership between EU and Azerbaijan. The new ENP also maintains the rule of law and independent and effective judicial systems as priority areas for reforms, as prerequisites for social and economic stability in the country. Reinforcement of the EU Action Plan on Human Rights and Democracy and the EU Gender Action Plan 2016-2020 in the new

ENP can be seen as the manifestation of the EU’s roadmap towards stability, security and prosperity, which ENP is aiming for. And in combination with other policies and instruments of the EU, such as EU Guidelines on Human Rights Defenders, upholding human rights in Azerbaijan looks feasible, though not easy.

Although so far the incentive-based approach ‘More for More’ was not very successful because of the lack of political will in Azerbaijan to support reforms in the fields of good governance, democracy, the rule of law and human rights; however, in view of new economic conditions in Azerbaijan after the completion of the golden decade of a ‘blooming’ economy due to high oil revenues, a unique political momentum has been created – making more ground-breaking political reforms possible in the event that international pressure and the incentive-based approach is intensified as Azerbaijan becomes heavily dependent on external financial aid.

In this regard, a number of agreements regulating relations between EU and Azerbaijan so far, namely EU-Azerbaijan Partnership and Co-operation Agreement (1999), the Visa Facilitation Agreement (2013), Mobility Agreement (2013), the Readmission Agreement (2014) as well as Single Support Framework of EU assistance to Azerbaijan for the period 2014-2017 can enjoy a second life and be a new response to a changing Neighbourhood Policy in Azerbaijan, the successful implementation of which may further bring Baku to engage in current negotiations with Brussels on signing a new comprehensive agreement, stipulating mutually beneficial cooperation between the EU and Azerbaijan in the short term and with a long-term perspective of signing an Association Agreement with the EU that can be the first sign of the long-awaited crucial shift in the country towards democratic principles.



Who From Belarus is at the Heart of the EU's Policy?

Vladimir Korzh and Maria Lando

In the countries of Eastern and Central Europe civil society has always played a significant role in transformational processes. It constitutes and translates to the state and society the needs, interests, and aspirations of populations with whom it works in the field. It functions as a source of expertise and as a partner in promoting reforms *vis-à-vis* the state and other interested parties.

In Belarus civil society has been operating for a long time under strict control and pressure from the government and is largely dependent on foreign funding and support. For years it was vulnerable, with a very limited capacity to influence the situation in the country. So when the European Union (EU) and Belarus carry on a dialogue showing no need to involve the representatives of civil society as equals in the process, there is a risk that the desired political and structural reforms in such an authoritarian state as Belarus will not happen at all or will produce unpredictable effects.

The concern about the diminishing role of civil society in transitional processes is provoked by the European Neighbourhood Policies (ENP) 2015 priority that 'the most urgent challenge in many parts of the neighbourhood is stabilisation' which will be best achieved by fostering economic and social development, including cooperation with authoritarian countries such as Belarus. In other words the EU is shifting its focus more towards authoritarian government and away from pro-democratic reforms promoting civil institutions, thus shrinking the space available to civil society.

This policy brief provides the overview of how Belarusian civil society influences the transformation process in the country in the context of new changes and trends developing outside and inside Belarus and contains a number of ideas and considerations in terms of what the EU could focus on regarding Belarusian civil society within the framework of the revised ENP 2015.

CROSS-BORDER NEIGHBOURS: FRIENDS OR INTRUDERS

Belarus is famous for its peculiar geographic situation right in the centre of Europe, if Europe is measured from the Atlantic Ocean to the Urals. The neighbours of Belarus – the European Union, Russia and the Ukraine – have for years been engaged in a tug of war of competing interests, with Belarus in the middle. But all the states involved seek to maintain the current balance because otherwise it can ruin stability in the region. So the neutral position of Belarus and its leadership in this game is in the long run vital to all players.

All through the post-Soviet period Belarus and Russia have been treating each other as uneasy allies, forced to be friends. The friendship goes back to Soviet times and in the new era was proved again and ensured by a Belarusian referendum in favour of integration with Russia in 1995. Since 2000 the two countries have formed the Union State of Belarus and Russia. However, the countries keep experiencing political and economic disruptions at regular intervals, which have become more visible in the context of the Russian-Ukrainian conflict.

Under the growing threat of NATO approaching Belarus/Russia borders through the Baltic states, Poland, and now the Ukraine, the Kremlin is persistently trying to expand its control over Belarus. These attempts have produced quite the opposite effect. The Belarusian government policy has become more bold and independent in the

period 2014-2017: in the past few years Belarus has supported the Ukraine in its confrontation with Russia, offered Minsk as a platform of international negotiations to mediate the conflict for the sake of stabilisation of the region, it has refused to host a Russian military airbase and has changed its rhetoric to become more assertive. Disputes are more in evidence and are starting to cover a wider range of issues in the economy, security, mobility, foreign policy, media, and culture. On 1 February, 2017 Russia's Federal Security Service unilaterally established fully fledged border protection in response to Belarus leadership's decision to abolish visas for short-term travellers.

The attitude of civil society in Belarus towards Russia, in its turn, is becoming more cautious with a growing level of suspicion, especially after numerous propaganda attempts by the Russian media to discredit Belarusian civil society.

In the long run the Kremlin's assertiveness made the government of Belarus take a new shift in its policy, in line with civil society, which was called 'Soft Belarusization' and it received a lot of criticism from Russia.

Growing tension in Belarus-Russia relations and the challenges threatening Belarusian economy are forcing the government to take cautious steps towards the European Union. However, the EU has little chance to strongly influence Belarus because with 20+ years of an unchanged presidency Belarus will never follow the 'more-for-more' principle unless this offers considerable advantages for the country.

CIVIL SOCIETY AND GOVERNMENT: SUPPORT OR BURDEN

The general domestic context in which civil society in Belarus operates can be characterised by the omnipotence of the state, government and its structures and the insignificance of civil society and the suspicion it is viewed with

by the state. Accordingly the legal environment regarding the civil society is created in the country. For civil society organisations (CSOs) the situation is permanently unfavourable: activities of unregistered organisations are criminalized, the registration procedure for associations is complex, and CSOs have limited access to funding, both local and foreign.

CSOs in Belarus face constant challenges threatening their existence. This is especially true of those not registered in the Republic of Belarus. Legal complexities lead to the marginalisation of such CSOs. More politicised organisations have little chance of being registered in Belarus at all and appear outside the law in terms of Belarusian legislation. The shortcomings of the judicial system and pressure on members of unregistered non-governmental organisations greatly hamper CSOs activity in the country. Even socially oriented and officially registered CSOs often have problems in carrying out social activities; they are faced with financial difficulties, such as obligatory rents with disregard of the non-profit nature of CSOs and a lack of benefits.

The difficult economic situation in the country makes the leadership look for investments not only through government and business channels but also through sources funding civil society organisations. Improvements in Belarus' relations with the EU have also raised the need to demonstrate an active civil society. In an attempt to achieve both objectives the state has pointed to the growing number of Government-Organised/Operated Non-Governmental Organisation (GONGOs), thus channelling foreign money to the government and imitating liberalisation process in the country. GONGOs, with their decorative functions, are harmful for Belarusian civil society and the current state of affairs on the whole, primarily because they often discredit authentic CSOs that are aimed at systemic transformations and are created to gradually drive the latter out of the CSO sector.

At the end of 2016 a group of Belarusian civil society experts identified most evident trends in the development of CSOs in the country. It is worth paying special attention to three of them:

1. 2016 was marked by an alleged thaw in relations between the government and civil society. Government officials demonstrated formal interest and engagement in major events initiated by civil society, visited a number of them, invited representatives of CSOs to intersectoral working groups. The Prime Minister of Belarus even opened the CSO-organised Belarusian forum 'Broadening the Horizons: Investments, Finance, Development'. However, this improvement is only an illusion because the participation of CSOs in intersectoral discussions had very little effect on decision-making process and did not in any way change the attitude of the authorities *vis-à-vis* CSOs for the better.
2. 2016 in Belarus witnessed a boost of activism on behalf of non-formalised initiative groups and unaffiliated citizens in towns and in the regions. At the same time traditional CSOs, especially those that operate in the regions, either failed to become stronger or remained inactive.
3. Another obvious tendency is a growing number of CSOs being founded by one person, which are more attractive to civil society activists who can register more easily as a formal organisation, on the one hand, and to donors who can fund such organisations with fewer problems, on the other hand. The experts, however, expressed deep concern about the growing attractiveness of such CSOs because their structure does not require governance and creates a high risk of negating democratic values integral to good civil society.

CIVIL SOCIETY IN REFORMS: ENGAGEMENT OR IMITATION

According to studies on the attitude of Belarusian society to reforms, which are regularly conducted by the Belarusian Institute for Strategic Studies, civil society is more motivated, focused and eager for reforms than the government, businesses, and general public. However, the current political and socio-economic situation in Belarus, coupled with the negative attitude of the authorities towards CSOs, means they are forced to work in quite hostile conditions and have little influence on possible reforms.

Belarus has signed a number of international undertakings providing CSOs with mechanisms that allow them to engage in dialogue with the state, e.g. Aarhus Convention rules, the Universal Periodic Review of Human Rights in the United Nations for Belarus, etc. According to Belarusian legislation, civil society can do this by taking part in public hearings on certain issues, particularly in the field of environmental protection, in decision-making on urban development and the location of new enterprises. Another mechanism of policy dialogue is public councils created as advisory structures in a number of state authorities. It is often the case that these advisory councils are quasi 'public', as their members mainly include officials from government agencies. There are no legal acts in Belarus so far regulating the establishment or functioning of the councils, so the participation of civil society in them is optional. Belarusian CSOs also participate in the drafting of regulations and implementation of the authorities' decisions. Due to the strict observation by the government of the law 'On Appeals of Citizens' CSOs use this opportunity to send petitions, especially online, which has become now a new popular trend in society.

Nevertheless only a limited number of CSOs have a significant impact on decisions taken by the authorities. The main obstacle to the par-

ticipation of civil society is its widespread association by the authorities with the opposition. The visibility of civil engagement and the real contribution of CSOs to decision-making is not yet welcomed and exists mostly only on paper.

In spite of the unfavourable conditions for civil society and ineffective mechanisms of civil society, Belarusian CSOs' participation in decision-making showed more active efforts in advocacy in 2015-2016 than before. Due to these efforts in 2016 the Government of Belarus ratified the Convention on the Rights of Persons with Disabilities; public participation in the process of discussing environmental issues increased; contracting of NGOs' social services covered more areas of social life. Green activists and environmental CSOs in various locations managed to protect green zones from destruction approved by local authorities. Representatives of civil society, active citizens and independent media managed to block the installation of the broken nuclear reactor case at Belarusian Nuclear Power Station.

HOW THE EU CAN EFFECTIVELY SUPPORT CIVIL SOCIETY IN TRANSFORMATIONS IN BELARUS

The EU's new prerogative to focus more on stability and security in the region to enhance structural reforms in Belarus would require the EU to review its attitude towards Belarusian civil society. This approach should definitely enhance the capacity of civil society to effectively promote systemic transformations in the country. In this respect, while designing and implementing the revised European Neighbourhood Policies 2015, the EU should take into account the following considerations:

1. Civil society in Belarus is the main potential promoter of systemic transformations in the country. It constitutes and translates to the state and society the needs, interests, and aspirations of populations with whom it works

face to face. Moreover, Belarusian CSOs are highly motivated, focused and eager for reforms significantly more than the government, businesses, and the general public. Despite its variety civil society is united in its vision that is very similar to the EU's, that reforms in Belarus should be liberal and democratic. That is why downgrading the significance of the civil society in favour of the government and its structures will in the near future diminish the capacity of civil society and the country in general to initiate and implement proper reforms.

2. Ideally, every case of bi- or multilateral communication and collaboration at all levels should involve experts and opinion-leaders from the government and CSOs. Moreover, the EU should not be confused by GONGOs and pro-governmental CSOs, which as a rule translate into official governmental positions.
3. It is worth noting that the government and its structures in authoritarian Belarus possess sustainable resources, a developed infrastructure, administrative power and control. All this ensures a higher capacity of the government in implementing decisions and achieving results in the transformation process than that of civil society, whose sustainability is drastically impeded by the government itself. In this context the EU should clearly understand that unequal possibilities produce unequal results and it should establish a certain level of differentiation in the standards and expectations required from civil society and from government and pro-government structures.
4. Assertive, and at times anti-EU, propaganda by the Russian media requires considerable and urgent measures from Belarus and the EU to encourage a critical and analytical view of information by the Belarusian people. The most effective way to facilitate transformation in this area is to invest funds, share knowledge, and give other support to the independent Belarusian media.

5. The shift of the EU away from civil society in Belarus creates the risk of limiting itself to one-sided information provided by officials and which sometimes reflects only partly the real state and analysis of affairs. To fill in this information gap leading to uninformed decisions, the EU should complement the information it receives by evidence-based data, analyses, and multi-faceted evaluation provided by Belarusian independent think tanks, independent academics, and CSO analysts.
6. In order to make political and structure reforms happen the EU should enhance the impeded capacity and sustainability of civil society in Belarus in the transformation process. The EU should position itself as the agent of change and make a considerable contribution to facilitating reforms that could improve the conditions of Belarusian civil society in its existence and development.
7. The existing EU approach to funding civil society in Belarus appears to indicate more the application of the conditionality principle more to civil society than to the government. This said, the EU should consider well before applying possible cuts in funding to civil society, against 'killing it softly'. For the past few years the structure of civil society in Belarus has undergone increasing change due to the growing activism of local initiative groups, communities and unaffiliated citizens. At the same time, due to legal restrictions, there are quite a lot of pro-democratic and transformation-seeking CSOs in the country. Such cases create additional difficulties for the EU regarding proper funding. The EU should demonstrate constructive flexibility and broaden its programs to reapply funding for non-formal CSOs as well as for partnership programs when Belarusian CSOs get funding for their activities with and through European partner CSOs.
8. The contribution of the proposed measures to the structural reforms in Belarus could well be supplemented by strengthening the cooperation of the EU and Belarus in mobility & people-to-people contacts. They broaden peoples' outlook and their understanding of different cultures and benefit the establishment of friendly, safe attitudes and balanced relations between countries. It is even more important in a situation when Belarus has opened non-visa five-day entry for representatives of 80 countries, including all EU countries.



Civil Society in Moldova. Projections for 2017

Igor Munteanu

TIME TO TANK AND TIME TO THINK

Civil society is still a fragile concept of social organisation in Moldova if defined in terms of financial viability, membership, charity size or influence on government affairs. For some obvious reasons, CSOs in Moldova are much weaker than their brethren in the West, but there is a long story behind this. Growing out from the dust of a former collectivist state, civil society grows out of a sharply divided society, which is still imbibing various fallacies of the former regime.

Nevertheless, civil society is evolving as a self-creative realm of liberal CSOs, thematic think tanks, urban activists, various voluntary groups and free-minded civil activists. Following Mark Howard and others in defining civil society as a community of citizens who come together and associate within the sphere of the 'public space', that is distinct from individual, family and friends-based networks, on the one hand, and the state and market, on the other, one can still see a marked gap between people in need and the embryonic forms of civil society.¹

The establishment of CSOs is generally favourable in Moldova, based on a liberal set of laws protecting freedom of association.² There are two types of non-profit organisations accord-

ing to Moldovan law: public associations and foundations. The Ministry of Justice counted 11,029 CSOs on February 12 2017,³ but only some of them claimed they had carried out a project so far. In June 2015, the official procedure for granting public benefit status changed, with a possibility for CSOs to apply on-line, and with the possibility for the Ministry of Justice to postpone registration until the applicant organisations had adjusted to a 30-day re-application period. Most of the registered CSOs are grassroots, based on some community-related aims or expectations, but due to the acute lack of adequate staffing, means and appropriate skills, many soon decide to suspend or freeze their activities.

In 2015, Moldova's CSO Sustainability Index was ranked at 3.9,⁴ showing slight improvements in terms of financial viability, with impeded progress or even decline for the rest of scores. Nearly 50% of the registered CSOs work in the social or educational fields; every 10th COS works in the field of human rights, 7.3% in the youth sector, environment 6.5% and 4.3% in economic development. All CSOs may request a public benefit certificate, which allows them to be granted full or partial tax-free status from the Ministry of Justice. Active CSOs are located in the major cities, with very few operating at the regional level or in rural areas.⁵ Most lawyers with a knowledge of the legal norms and regulations on civil society live outside vulnerable areas, small cities and rural settlements. Statistics are often misleading since most local governments do not keep a standard database on CSOs, giving rise to errors or ambiguities.

1 Marc Morjé Howard, *The Weakness of Civil Society in Post-Communist Europe* (New York: Cambridge University Press, 2002).

2 Freedom of association is legally protected by Moldovan Constitution (1994), Civil Code (Law No. 107/2002), Law on Public Associations (No. 837/1996 of 17 May 1996), Law on Foundations (No. 581/1999 of 30 July 1999), Law on Philanthropy and Sponsorship (No. 1420/2002 of 31 October 2002), Law on Public – Private Partnership (No. 179/10 July 2008).

3 State registry of non-commercial organisations, <http://rson.justice.md/organizations>

4 The 2015 CSO Sustainability Index ranks Moldova at 3.9, which includes the following sub-scores: sustainability 3.9, organisational capacity 3.7, legal environment 4.2, financial viability 4.7, advocacy 3.3, infrastructure 3.4. The 2015 CSO Index for Central and Eastern Europe and Eurasia is produced by the USAID Bureau for Europe and Eurasia Technical Support Office (TSO), Democracy and Governance (DG) Division.

5 In 2011, 65% of CSOs were found in Chisinau, which accounts only 25% of the population, according to the data provided by the Strategy on Civil Society Development. Almost 2,500 CSOs are registered in the breakaway region of Transnistria, which is only de jure part of Moldova.

The underlying assumption was that 'CSOs in Moldova encountered obstacles in engaging with the state authorities, due to the overall political and economic instability'. The law governing CSOs allows civic associations to undertake a wide range of activities, including charity activities, owning enterprises, printing houses, implemented or purchased from the association's means in accordance with its statutory goals and tasks.⁶ They can receive grants and other resources from other countries, from national, foreign and international foundations, private individuals and other sources. However, 58% of CSOs claim that under current law, civil society is equated with for-profit entities and are hampered by labour and fiscal codes.⁷ Since domestic financing is a serious factor hindering civil society growth, most of them are usually donor-driven, and can thrive only if they adopt a successful project-based approach, which may lead sometimes to them losing their original motivation. Studies show that 83% of CSOs rely on foreign funding, and if donors cut back funding, they may stop their work.⁸ The issue is not only that CSOs are somnolent or unaware of how to engage with potential grant donors at home. Their lack of intervention is largely due to the overall state of the economy, first steps of charitable actions and to a large extent the irrelevance of the practice of 'giving' to business entities in Moldova.

Private business will usually decline to finance CSOs due to limited social responsibility capabilities, as well as the fear of antagonising politicians. As a result, CSOs have to pool their vital resources from a limited number of foreign organisations. Overall, the EU and the USA are the largest suppliers of funds to CSOs in Moldova,

providing nearly 80-90%.⁹ Some CSOs access public funds from the Government. A Law on Social Services (2010) allows public bodies to sub-contract to CSOs, after their full accreditation, and other CSOs may receive funding by accessing national programs. The Ministry of Economy give grants to some CSOs to promote energy efficiency. Although the grants seem modest (\$500-1,000), this is a good step forward in ensuring sustainable work of CSOs. Domestic charities started to emerge in Moldova (Sturza, Edelweis), but they usually focus on providing targeted assistance to people in need, providing shelter or other covering emergencies as decided by their philanthropists, and bylaws,¹⁰ with limited links with CSOs.

A new pattern of charity work has recently emerged in Moldova through crowdfunding, coupled with a web of other social networking and donor-aimed activities (FB, LinkedIn, YouTube, Twitter). Although it has not yet become a part of the local culture, crowdfunding activists have pledged money for much appreciated projects in the past year, such as the TINCO camp for children selected from the Moldovan diaspora abroad. A campaign by Indiegogo raised \$3,525 in only 22 days, enough to host full-board tuition for children from socially vulnerable families in IT courses.¹¹ Another project was launched in 2016 to revive the Chekhov Square in Chisinau with the targeted goal to raise \$15,000, aimed at repairing the sidewalks, upgrade the green zone, install lighting, provide benches, bins, lamps, advertising light boxes and a Wi-Fi zone, and the same Indiegogo successfully reached its scope.¹² Its success made United Nations Development

6 Law No. 837-XIII of 17 May 1996 on Civic Associations, Art. 27.

7 Legal survey conducted by the Legal Resources Center of Moldova (CRJM) with support of USAID, March 2017: www.crjm.org/wp-content/uploads/2017/03/2017-03-29-Rezultate-sondaj_fin.pdf

8 Serghei Neicovcen, Daniela Vidaicu, and Vasile Cioaric, *Fundraising from Domestic Sources: Opportunities and Perspectives*, Contact Center with support of USAID, 2016: <http://fhi360.md/docs/Annex%20by%20Moldovan%20CSOs%20from%20domestic%20sources.pdf>

9 Liubomir Chiriac and Eduard Tugui, *Civil Society Organisations from the Republic of Moldova: Development and Participation in Policy Dialogue*, IDIS-KAS Study financed by the European Union, 2014.

10 Law No. 581 of 30 July 1999 regulating the functioning of foundations in the Republic of Moldova.

11 www.guvern24.md/en/news/experienta-de-crowdfunding-in-moldova-top-3-proiecte-de-succes/

12 Vlada Ciobanu, *Sa dam o viata noua scuarului Cehov!*, www.indiegogo.com/projects/o-via-a-noua-pentru-scuarul-cehov/

Programme (UNDP) launch a national crowdfunding campaign ‘Make apples cool’,¹³ with the aim of increasing the intake of fresh fruits in pre-school institutions and schools by distributing fresh sliced apple snacks. Between May 30 – July 30, the campaign raised \$12,417 from more than 170 private donors, using crowdfunding (Indiegogo), QiWi and MMS payment terminals. Everything is enjoying increased support from civil society and the private sector, achieving a financing output of 124% of the intended funds, and clearly exceeding expectations. This sort of innovative platform may encourage incoming campaigns with CSOs support.

BUILDING TRUST WITH THE GOVERNMENT: ‘BURNING LIKE ICARUS’

One of the most important steps after 2009 was, in fact, the capability of the government to engage with civil society in a credible format, as a national project entitled ‘Re-think Moldova’. The project emerged as a sort of mid-term national development programme, based on wide and substantial consultations with CSOs, think tanks, community-based organisations. This drew an immediate reaction from the EU.¹⁴ Afterwards, a National Participatory Council (NPC) emerged in 2012 as a way ‘to engage with civil society and ensure a favourable environment for the development of an active civil society, able to contribute progressively to democratic growth, social cohesion, and investments’. The NPC was set up by the Government’s decision (No.11 of 19 January 2010), inviting 30 CSO leaders to attend a national advisory body

aimed at facilitating participation in the elaboration, implementation, monitoring, evaluation and updating of policies, programmes and strategic planning involving government authorities. The dialogue with civil society was solid and growing, making out National Participation Council (NPC) the best-known platform for public consultations, where almost all sectors and their key leaders were able to participate in the decision-making process. Volunteering for charity and internships hosted by CSOs is becoming very appealing for students and social activists who hope to upgrade their professional curricula. A Civil Society Development Strategy was compiled in 2012 to strengthen the sustainability civil society,¹⁵ but also to boost participation of citizens and of the private sector. A noteworthy achievement of the NPC was to direct 2% of personal income tax to CSOs.¹⁶ Critics say that some CSOs could be better off in attracting these resources, while others may not be so lucky, due to several factors that could further deepen existing inequalities. Policy issues could stir tensions with the ruling parties; therefore, companies may decline to engage with think tanks. This has consequences for critical voices of in civil society.

According to the 2015 World Giving Index, 14% of respondents in Moldova reported ‘they participated in voluntary activities in 2014’, compared with 17% in 2013.¹⁷ People who are part of civil society organisations are more tolerant, they are eager to engage and help others. For instance, people associated with CSOs show an increased level of tolerance towards others, in particular towards minority groups and their members. When asked what groups of people

13 Daphina Gercheva, UN Permanent Resident in Moldova. Every dollar from the donated amount will be doubled by UNDP Moldova, and the collected funds will be transferred directly to the fruit processing and packing companies, which were selected via a competition, for final product development:

www.md.undp.org/content/moldova/en/home/presscenter/pressreleases/2016/08/02/colectarea-de-fonduri-pentru-proiectul-coolege-vitamine-a-dep-it-a-tept-rile-.html

14 EU Observer, Opinion of Stefan Fuele and Philippe Le Houerou. Rethink Moldova, 23 March 2010: www.euobserver.com/opinion/29745

15 Law No. 205 of 28 September 2012 on approving the Civil Society Development Strategy for 2012-2015 and the Action Plan for implementing the Strategy, Official Monitor No. 1-5 of 4 January 2013:

<http://lex.justice.md/viewdoc.php?action=view&view=doc&id=346217&lang=1>

16 Activity Programme for 2015-2018 of the Government of the Republic of Moldova, pp. 41-42,

www.parlament.md/LinkClick.aspx?fileticket=uskJCCIZKz%3D&tabid=128&mid=506&language=ro-RO

17 2015 CSO Sustainability Index (Moldova), p. 163.

are discriminated against in Moldova, 2/3 of the respondents answered 'people with mental and physical disabilities'; over 50% said 'poor and HIV-positive persons', and one in two said 'elderly, gay and lesbian members and Roma', while one in three said 'women'. Based on the Bogardus social distance scale (SDI), Moldova is rated with a tolerance index of 2.8. This implies that half of people will not accept minority groups 'as friends, neighbours or family members', compared with 0.4% who 'would accept them' (14 groups).¹⁸ In other words, being involved in organised forms of civil society makes people more susceptible to civic mobilisation and thus makes public authorities and political leadership more accountable, demanding a greater degree of responsiveness from them, and showing interest in politics.

The EU called on civil society to be an active partner and an asset to boosting reforms in Moldova. In September 2012, an EU Communication 'The Roots of Democracy and sustainable development: Europe's engagement with civil society in external relations'¹⁹ suggested a more strategic EU view on CSOs in developing and assisting the neighbourhood as a subsidiary to the executive bodies, NPC was able to get a recognized status, which entitled its parties to monitor government activities and explore dozens of other ways to improve accountable and transparent policy-making. In its turn, the EU Delegation in Moldova demanded the government to set up credible mechanisms of dialogue with civil society. Regular watchdog activities arose to monitor the integrity of procurement; the investigative media was keen to report to the public about possible wrongdoings; scoring transparent budgeting and other sorts of activities have been con-

ducted in Moldova, seen as credible benchmarks to measure progress of the EU-RM Agreement. Participation of the CSOs in law-making and evaluation of policy initiatives was noteworthy during 2010-2014. Ministries became keener to establish online consultations on various draft laws or to attend public debates, without pretending they are not interested. All these changes are positive steps that may strengthen the public mind-set and rule of law practices.

EASTERN PARTNERSHIP – A FRONTIER OF HOPE FOR CIVIL SOCIETY LEADERS

One of the most significant factors that boosted civic energy and activism among CSOs was clearly the signature of the Association Agreement (AA) between EU and Moldova on June 27, 2014. The Agreement deals with a complex set of issues that impact almost every aspect of political, economic and social life. It aims not only at the adoption of EU norms, but pushes for the internalisation of norms, adaption to rule of law standards, limiting corruption, ensuring respect for human rights, reinforcing democratic bodies.²⁰ The overall attraction of the EU project for trade, people-to-people dialogue and welfare standards, paved the way to a growing acceptance of the need to reform Moldova and served leading political elites as a sort of 'green card' to advance, negotiate and sign up the Association Agreement with EU on June 27, 2014, based on a Deep and Comprehensive Free Trade Agreement (DCFTA). DCFTA was intended to diversify exports and improve the legal framework for a market economy. Moldova was the largest recipient of aid per capita in the European Neighbourhood Policy (ENP).²¹ The

¹⁸ Perceptions of the Population of the Republic of Moldova on Discrimination. Sociological Study, Soros-Moldova Foundation, 2015, pp. 16-17. The Survey shows a strong correlation between the individual degree of education and social networking and inclusivity or tolerance of minorities (people with disabilities, HIV, LGBT, Roma).

¹⁹ Communication From The Commission To The European Parliament, The Council, The European Economic And Social Committee And The Committee Of The Regions, www.ec.europa.eu/europeaid/roots-democracy-and-sustainable-development-europes-engagement-civil-society-external-relations_en

²⁰ For more details see:

www.3dcftas.eu/publications/key/introduction-association-agreements-between-eu-and-georgia-moldova-and-ukraine-0

²¹ Dirk Schuebel, Moldova is a success story to the EU:

www.moldova.org/en/eu-official-moldova-is-a-success-story-233320-eng/. Stefan Fule calls Moldova a 'success story'.

funds to Moldova ranged from 335 m to 410 m (2014-2017). On April 27, 2014, Moldova was the first EaP state to sign the visa-free agreement with the EU, which allowed Moldovan citizens who are holders of biometrical passports to travel to the EU without visas, in addition to preferential access to the EU market. The EU acted thus as a 'committed and benevolent foreign policy actor', willing and capable to invest its resources in a partner country that requested an enhanced status of cooperation with the EU.

In February 2015 a Policy Document²² on the key reforms was presented to the newly endorsed Cabinet of Ministers by the major partners for development, thus using the gap between the December election results and the new PM tenure to focus on urgent measures in: energy, anti-corruption, regulations, education, and social policy. Civil society thus became an indispensable element in the scrutiny and monitoring of progress and a dedicated messenger between the general public and the political authorities. The Agreement offered major incentives for the state and societal reforms, followed by TAIEX, Twinning, SIGMA, and other programs, stepping in to assist Moldovan efforts on the domestic front. Since 2010, the EU decided to deploy a large cohort of high-level policy advisers to the main institutions to support them in designing and implementing Moldova's EU integration agenda, starting in January 2010.²³

While demand for change keeps citizens' expectations quite high, rifts between civil society and political leaders have sapped a lot of energy out of their relationship. The media also point out the fact that 'true champions' of corruption must be and are, most often, regular civil servants, police officers, people who can veto 'business as usual' deals and promote illicit activities: public procurement, officials in charge

of licences or other types of permit, the police and other networks of domestic security agencies, cadastre and other land management authorities and builders of housing estates. In fact, public awareness of the benefits and benchmarks based on DCFTA serve as a real test for the government's desire to deliver concrete results to the population and also as a catalyst of change to the real economy. Although the government adopted important laws and regulations to limit corruption, the results were mixed and criticism stirred negative reporting.

But the 'honeymoon' between civil society and the government had ended by the end of 2014, when rumours about a banking fraud of astronomical size reached the mass media. The fraud broke parties, bankers and criminal networks, causing a very serious crisis in Moldova, which completely undermined the ruling pro-EU coalition. Massive riots shattered the country, with some of the leading voices of the opposition parties and civil society leaders joining political parties and criticizing the culprits standing behind the fraud.²⁴ Soon an international financial inquiry group (Croll International) was hired to investigate the fraud. If 2009 elections paved the way for CSOs to trust that government's call for dialogue and cooperation, in 2015 leading CSOs seem to be rather confused how to proceed further on with a government that was not living to their democratic expectations. For instance, leading NGOs walked out from the National Participation Council, stating they may return only when the banking scandal will be fully investigated. The banking incident shattered the country at its top and down. In politics, the banking scandal has practically killed and buried the original pro-EU party coalition, prompting competing ideologies and parties to challenge the incumbent parties with the call for re-election. Prior to the Presidential race of 2016, all ruling parties enjoyed together less

22 www.eeas.europa.eu/delegations/moldova/documents/press_corner/briefing_book_final_feb-10-2015-rev_order_en.pdf

23 EU High-Level Advisers' Mission to Moldova, www.eu-advisers.md/page/project-description

24 Gina S. Lentine, Moldovans Settle In for a Standoff with Corruption, Freedom House, 10 September 2015, www.freedomhouse.org/blog/moldovans-settle-standoff-corruption

than 5% in a National Poll, while two candidates running in Presidential elections collected more than 80% altogether.²⁵

The Transparency International (2015) Corruption Perceptions Index ranked Moldova 109th out of 167 countries, with a negative trend since 2012.²⁶ In October 2016 public trust in the judiciary was only 8%, compared to October 2008, when it was 37%.²⁷ In 2016, the Rule of Law Index ranked Moldova 77th out of 113 countries due to corruption, as well as civil and criminal justice low scores.²⁸

CSOs claim that opaque deals behind doors already brought Moldova to the brink of a banking collapse and that this sort of amnesty legislation is a glaring expression of rent-seeking schemes, promoted by oligarchic groups. Although there is a legal framework on transparency in the decision-making process,²⁹ the government often applies it in an inappropriate way. Civil society expressed its dissatisfaction many times, while among the objections there was mentioned failure to comply with the requirements for stakeholder consultation and transparency at the decision-making stage, failure to submit normative acts for expertise, avoiding transparency of opinions on deputies' initiatives.³⁰ This is why some state authorities perceive civil society as a potential enemy and not as an actor that should be involved in decision-making to resolve doubts, thus providing ammunition for the people's mistrust as well as reasons to detect unethical behaviour or a lack of accountable governance, while a lack of dialogue blocked ef-

fective cooperation and dialogue. CSOs called on the EU and USA to lead the on-going banking fraud investigation, indicating clearly that they do not trust Moldovan anti-corruption authorities. In 2016, RISE Moldova investigated the illegal leasing of forests and schemes to export and re-export fruit to Russia despite the country's drastic embargo on Moldova.³¹ In its turn, the Centre for Investigative Journalism (CIJ)'s online portal 'anticoruptie.md' explored the businesses, assets, and interests of high-level dignitaries, leading to a reaction by the PM who asked the National Integrity Commission to investigate the data. The Anticorruption Prosecution Office and National Anticorruption Centre (NAC) investigated 595 penal cases in the courts of justice, which found defendants guilty in 83% of cases, pronouncing convictions and terminating trials by applying administrative liability.³² In 2015, three CSOs issued a regular Euromonitor,³³ revealing for instance that after assessing 407 actions of the Agreement, only 24% of its stipulated activities were implemented in 2015-2016, only 11% were implemented partially, while 29% of actions remained on paper.

In December 2016, civil society in Moldova disputed a bill on capital amnesty, which was adopted in the first reading by Parliament, with no prior debates. The bill was registered on 1 December 2016 and on 16 December 2016 the Parliament approved it at the first reading despite the fact that it was drafted in a hurry, breaching rules of transparency in decision-making and legislative drafting; nor was it accompanied by the mandatory Government's opinion,

25 National Poll, CBS Axa, 30 September 2016.

26 Corruption Perceptions Index, 2015, www.transparency.org/cpi

27 Transparency International, Global Corruption Barometer, 2016, www.transparency.md/index.php/2016/11/16/barometrul-global-al-coruptiei-2016-guvernele-din-europa-si-asia-centrala-esueaza-la-capitolul-combaterea-coruptiei/

28 First Achievements and difficulties in implementation of the EU-RM Association Agreement (2015-2016), Adept, Expert Group, www.expert-grup.org/en/biblioteca/item/1202-euromonitor-aa-august-decembrie-2015

29 Law No. 239 of 13 November 2008 on transparency in decision-making, www.lex.justice.md/md/329849/

30 Appeal on enhancing transparency in decision making, 29 January 2010:

www.consiliulong.md/apel-cu-privire-la-sporirea-transparentei-actului-decizional/

31 'Reactia Ministerului Mediului la investigatia RISE: Ancheta la Moldsilva' (Reaction of Ministry of Environment on the RISE material: Investigation at Moldsilva), RISE Moldova, 28 October 2015, www.rise.md/reactia-ministerului-mediului-in-urma-anchetei-rise-...

32 Progress Report of the implementation of Association Agreement, Out of 647 persons, 48% were individuals employed by law enforcement agencies and judiciary, 20% from central and specialized public administration, 13% from local governments, etc.

33 First achievements and difficulties in implementation of the EU-RM Association Agreement (2015-2016), Adept, Expert: www.expert-grup.org/en/biblioteca/item/1202-euromonitor-aa-august-decembrie-2015

an anti-corruption review, a thorough analysis of the problem to be solved, and the financial and economic impact. They called it a ‘legalised form of money laundering’, aimed at compromising anti-corruption reform.³⁴ Of particular concern was the slow investigation of the banking fraud, obscure licensing of the state’s major assets, underscoring a sense of impunity for the officials involved. Some of the leading CSOs decided to join riots in Chisinau and even form a sort of civic platform, feeling they can get only limited results out of their previous excellent cooperation model with the bodies of the National Government. This hardening of attitudes on the part of civil society against the incumbent government officials did not pass without attention.

‘In March-April 2017, two draft laws on the modification of the electoral system were passed in the Parliament of the Republic of Moldova: the draft law stipulating the changeover to the system of Parliamentary election based on uninominal constituencies submitted by the parliamentary faction of the Democratic Party (DP) and the draft law on a mixed electoral system (where half of the deputies will be elected according to the existing system from pre-established party lists in a national constituency and the other half – on uninominal constituencies) submitted by the Socialist Party (SPRM),³⁵ spiralled new tensions between the ruling Democratic Party and opposition groups. Both projects were endorsed by the Parliament’s Legal Committee in just half an hour and both were voted on in the first reading.

‘Specialized civil society organisations condemned the arrangements between the PD [= Democratic Party] and the PSRM [= Socialist Party], the manip-

ulation of public opinion, as well as the flagrant violation of the legal norms that have led to this decision, requiring the withdrawal of both initiatives, soliciting the development partners of the Republic of Moldova to condemn the above mentioned actions and to cease support if the Parliament adopts it in final reading.’³⁶ Soon, the National Anti-Corruption Centre (NAC) announced they would not deal with politicised CSOs, indicating the need to create a ‘pillar of anti-corruption investigations with civil society’,³⁷ which seemed to be for the moment more a warning than a blessing. The National Agency for Integrity (ANI) has refused to accept credible candidates on behalf of civil society, instead including people with obvious political leanings in 2017. Similarly, the NAC seemed to have lost its battle against Anti-Corruption Prosecution, which is now affecting the quality of investigation and putting on hold pending court cases. With limited power to influence, CSO leaders welcomed a tougher and conditional standing of the EU, setting the tone for scrupulous investigation of the implementation of the EU-Moldova Agreement. CSOs are calling on the EU to inject more pragmatism, self-promotion and strategic thinking *vis-à-vis* Moldova. It is obvious that doing its homework and implementing domestic reforms will assist Moldova’s chances to accommodate itself to a long-term strategic engagement with the EU.

MOLDOVA: CHALLENGED BY BUREAUCRATIC STAGNATION

Despite initial signs of progress, Moldova remains fairly unstable.³⁸ For 900 days, the ruling alliance could not elect a President during 2009 and 2012.³⁹ Key reforms were seen as ‘cosmetic’ in the judiciary, while political and shady business

34 Public appeal on the adoption of the draft law on capital liberalization, 19 December 2016. Appeal on enhancing transparency in decision making, 29 January 2010, www.consiliulong.md/apel-cu-privire-la-sporirea-transparentei-actului-decizional/

35 www.transparency.md/2017/05/19/changing-the-electoral-system-before-elections-an-attempt-of-self-preservation-for-compromised-governors/; see also www.transparency.md/2017/05/05/the-parliamentary-majority-is-amending-the-electoral-system-by-breaching-the-legislation-and-common-sense-undermining-the-principles-of-democracy/

36 *Ibidem* (www.transparency.md/2017/05/19).

37 Civil society contradicting the position of the National Anti-Corruption Centre, 23 February 2017: www.anticoruptie.md/ro/stiri/reactii-societatea-civila-versus-cna-in-discutiile-privind-strategia-nationala-de-integritate-si-anticoruptie

38 Bertelsmann Transformation Index 2016, Moldova country report, pp. 30-32.

39 www.rferl.org/a/moldovas_new_president_sworn_in/24525312.html

interests became entangled with political parties. Although some ministers were accused of corruption during 2013-2017, the ruling dominant coalition (Democratic Party) successfully blocked key-packages laws aimed at fighting corruption. In June 2015, Government blocked the bill on personal property and interests statements and the National Integrity Center (CNI) proposed reforms. In April 2017, several officials and dignitaries close to the Liberal Party (LP) were victims of the guillotine of 'selective justice'.⁴⁰ As a result, this stance forced EU to block its budgetary support to Moldova.⁴¹ This has prompted civil society organisations to accuse the ruling parties of conducting 'selective justice'.⁴²

Freedom House calls Moldova a 'hybrid regime', with major setbacks in the area of free media, civil and political rights. A high level of oligarchic control undermines public trust, diverting already scarce resources in the interests of a few wealthy groups to the detriment of the population.⁴³ Global Perceptions on Corruption (2015) ranks Moldova at 103 out of 168 states, with a major drop from its previous 2012 rating.⁴⁴ Falling standards of life and several failures of policy are reflected in polls as mistrust in the state authorities. Polls show that for the first time in many years, corruption is the most serious factor affecting families. Public trust in the EU dropped in 2016 to only 36% of public support, less than for the Russian Custom Un-

ion (435). Respondents share an acute feeling of being alienated from the political power elite. A lack of sustainable growth, corruption and lack of jobs forced almost 1 million of people to work abroad. Over 335,000 of rural residents live below subsistence level, being affected by considerable rates of social inequality and vicious cycles of poverty.⁴⁵ People blame oligarchs for their troubles, but refuse to place their trust in parties and state bodies.⁴⁶ Public views are ambiguous about the meaning of fair justice,⁴⁷ since citizens are keen on settling first their own burning issues, unemployment, dire wages, access to social and medical care, leaving out anything that does not interfere with their basic interests. Only 37% of citizens believe, however, that officials are performing their duties and 75% say most of state officials are corrupt (CIS average score is 32%, while for the EU it is 5%). For instance, 50% declare they have no problem in settling any sort of trouble by giving bribes.⁴⁸

On March 10, 2017, the EU Commission presented its 1st Report on the Agreement with Moldova, calling for additional efforts to consolidate the rule of law and improve business conditions. As a recent shadow report reveals, civil society is less complacent than the national government on assessing the results of the Agreement, and also on the sequence of reforms.⁴⁹ Out of 1784 indicative measures (2014-2016), the IPRE Report

40 Fight against corruption, under the wand of Plahotniuc. List of those detained and convicted, 28 April 2017: <http://moldnova.eu/ro/lupta-cu-coruptia-sub-bagheta-lui-plahotniuc-lista-celor-retinuti-si-condamnati-15273.html>

41 Integrity of Dignitaries: From one Gate to another, 18 June 2015:

www.zdg.md/editia-print/politic/integritatea-demnitarilor-dintr-o-poarta-in-alta

42 Plahotniuc was dismissed. Masked men burst into the Government, 15 February 2013:

www.dw.com/ro/plahotniuc-a-fost-demis-masca%C5%A3ii-au-n%C4%83v%C4%83lit-%C3%AEn-guvern/a-16602236

43 Daron Acemoglu and James Robinson, *Why Nations Fail: The Origins of Power, Prosperity, and Poverty* (New York: Crown, 2012); Douglass C. North, John Joseph Wallis, and Barry R. Weingast, *Violence and Social Orders: A Conceptual Framework for Interpreting Recorded Human History* (New York: Cambridge University Press, 2009); Francis Fukuyama, *Political Order and Political Decay: From the Industrial Revolution to the Globalization of Democracy* (New York: Farrar, Straus and Giroux, 2014).

44 Bertelsmann Transformation Index (BTI), Economist Intelligence Unit (Country Risk Ratings), Freedom House (Nations in Transit), Global Insight (Country Risk Ratings), IMD World (Competitiveness Yearbook), Political Risk Services (International Country Risk Guide), WB (Country Policy and Institutional Assessment), World Justice Project (Rule of Law Index).

45 World Development Indicators (WB), World Bank Migration and Remittances Factbook 2011.

46 According to the CBS Axa Survey (2017), oligarchs must be held accountable for the banking fraud (52.9%). The judiciary must confiscate the property of the officials involved in the banking fraud to recover stolen assets (86.7%). People Watch, 1 February 2017.

47 Joint Communication to the European Parliament, the Council, the European Economic And Social Committee and the Committee of the Regions, Implementation of the European Neighbourhood Policy in 2014, Brussels, 25 March 2015.

48 According to Transparency International Moldova, the total of estimated corruption fees amounted in 2014 to almost 1.28 billion Moldovan lei, pointing out that the most corrupted institutions are believed to be: the judiciary (61%), Parliament (13%), government (11%).

49 Shadow Progress Report (2014-2016). Synthesis and Recommendations. Implementation of the EU-Moldova Association Agreement, Institute for European Policies and Reforms (IPRE), 24 March 2017, p. 4.

finds that 1126 were fully implemented, a rate of 63.1% (compared with the official evaluation of 73.74%). While recognising that civil society is vital, the Association Council EU-RM stated that ‘tangible results on reforms are necessary to restore trust in Moldova, addressing ways of settling political deadlocks via a constitutional reform and the implementation of OSCE/ODIHR recommendations on the electoral framework’.⁵⁰ Since curbing corruption is crucial for the concept of good governance, civil society supports a campaign of monitoring procurement, targeting unreported assets of state officials and shadow deals of the parties in power.

But the role of active civil society groups is not only to play a role in monitoring the activity of the government, revealing problems/deviations, also in the decision-making process, public procurement procedures, declarations of property and personal interests, management of state enterprises, which is a necessary area of civic work,

it can also reveal implementation setbacks and deviations from the original targets.

Civil society must engage with the rest of the society, empowering it to stand up to vested interests and restore a form of ‘state capture’ in Moldova. Also, civil society must act as a credible body in international investigations into money laundering, bank fraud, attempts to legalise fraudulent money in Moldova, to avoid the risk of turning the country into a zone of regional instability.

The challenges are high, particularly in the area of fighting corruption, therefore public support for ambitious reforms is a vital ingredient of success and a test for active civic groups and think tanks of Moldova. The shortcomings are multiple; therefore civil society’s role and vision in bringing the country closer to EU standards will remain a key element in any model of transformative power.



⁵⁰ OSCE/ODIR = Office for Democratic Institutions and Human Rights of the Organisation for Security and Co-operation in Europe. Joint Press Release following the second Association Council meeting between the European Union and the Republic of Moldova, 14 March 2016, www.consilium.europa.eu/en/press/press-releases/2016/03/14-second-association-council-eu-moldova/

Armenian Civil Society Engagement in Decision Making Processes

Boris Navarsardian

On a formal level it is commonly accepted in Armenia that there cannot be an effective state policy without dialogue between the authorities and society in all spheres of public life. The government welcomes all suggestions of international organisations to establish bodies with the participation of representatives of civil society to ensure a consultative process for various strategic initiatives. The respective councils, coalitions, networks have been established during recent years. Discussions with stakeholders, including CSOs, have been organised since 2009 to elaborate the National Indicative Programme (2011-2013) supported by the EU Neighbourhood and Partnership Instrument. In 2013 a memorandum between RA Government and Civil Cooperation Network on advocacy and monitoring of the implementation of the Strategic Programme of Perspective Development of Armenia in 2013-2025 was signed. A similar approach could be observed within the RA Anticorruption Programme (2015-2018). Earlier consultative processes with civil society were launched within the framework of Poverty Reduction (2003) and Sustainable Development (2008) strategies.

However, a general assessment of civil society engagement is that it was limited to rare meetings in which representatives of the Government and international entities shared general information and gave the floor to CSOs for their interventions. These events were not meant to have any practical impact on the implementation of the programmes or on the decision-making process.

One of the obvious exceptions from the above mentioned rule was, probably, the Stakeholders Committee (created in 2006) in the framework

of the Millennium Challenge Account-Armenia (MCA), initiated by the USA. That body was immediately entitled to take part in taking important decisions, including the appointment of the MCA-Armenia Governing Council team. The Committee was formed through direct elections, organised by CSOs themselves. If, due to contingent factors, the outcome of the election had provided slightly more votes for genuine civil society representatives, the Committee could have contributed hugely to empowering the NGO sector as a crucial player in the public life of Armenia. But being in a minority, the independent CSOs could not resist the prevailing interests of business and the bureaucratic establishment.

As another promising process, the formats for consultations between the Government and the Armenian National Platform of the Eastern Partnership Civil Society Forum (preliminarily agreed in 2012-2013) could be mentioned. However, with the U-turn of Armenia and its decision to join the Russia-led Customs Union, the promises did not turn into reality.

There are some other traditional forms of institutional participation of civil society in the consultation process. One of them is Parliamentary hearings. In some cases real debates take place there with the active engagement of experts representing Armenian NGOs. On certain controversial issues, where the position of civil society was backed by influential intergovernmental organisations (CoE, OSCE), an exchange of the preliminary intentions of the authorities was possible. One of the recent examples (2014) was draft amendments to the Civil Code, envisaging liability for comments in the internet (including social networks). Strong resistance of the Armenian media community supported by international expertise forced the initiators of the draft to step back and think about more acceptable approaches.

The formula explaining in which cases Armenian authorities are ready to compromise with alter-

native positions could be described as follows: ‘when such alternative does not pose risks to their staying in power’. The reform of the RA Constitution in 2015 was crucial for the Armenian leadership: the whole process of its adoption, including discussion in Parliamentary hearings, was organized so that principal opponents representing civil society were given almost no voice. The exception was made for those who criticised the draft Main Law (or Constitution) from the side-lines and had little influence on public opinion.

With the start of the Eastern Partnership in 2009 more space was opened up for civil society to have an impact on decision making. Trying both to reach a broader societal accord after problematic elections in 2008 and to attract political and economic support from the West, the RA President established the Public Council as a consultative body. The leadership of the Public Council consists of mostly those politicians, representatives of the intelligentsia and the NGO sector whose credo is loyalty to the Government. In response they expect to obtain a higher social status. The above mentioned Armenian National Platform (ANP) of the EaP Civil Society Forum was launched almost at the same time and proved to be a really independent entity, expressing its principal position on major developments in the country.

RELATIVELY GOOD EXAMPLES OF REFORMS PROMOTED BY CIVIL SOCIETY

Only the relative effectiveness of reforms promoted by the civil society can be commented on. The recent heavily advertised case concerned consultations on the new draft Electoral Code (2016). Their format included Government, opposition and civil society. Although the format itself and agreement on one major issue were welcomed by the international community, however, the process was strongly manipulated by the Government and representatives of

civil society were not satisfied with the outcome. A more positive example is the adoption of the new Law on Non-Governmental Organisations. The initial draft circulated by the Government in 2009 met with tough criticism from civil society as it contained serious restrictions on their operation. But the consistent work of NGOs and international organisations resulted in postponing the adoption of the law. Since 2012 two conflicting concepts of civil society development have been debated: one introduced by the Public Council with certain backing from the EU Advisory Group, and the other by several coalitions of independent CSOs, including ANP and Partnership for Open Society. The first concept envisaged a concentration of resources intended for civil society in the hands of entities de facto controlled by the Government, while the second tended to secure existing conditions for the diversity and independence of the NGO sector and provide more space for social entrepreneurship and volunteerism. And the package of draft legislative amendments regulating NGOs’ operation in Armenia became the main ‘battlefield’ for the two concepts. International organisations and foreign donors, primarily the EU delegation and USAID, were heavily engaged in the process through the projects supported by them. The demand of the international community was that no decision should be made without the consent of civil society. Eventually, despite few compromises, the law which was acceptable for genuine civil society was adopted by the Parliament in 2016. One of the major factors in this outcome was the professional approach to the issue of the staff of the Ministry of Justice (MoJ) as well as the great interest of the Government in receiving EU support channelled through the MoJ. This was one of a few precedents where the context of EU-Armenia cooperation played a role in the meaningful participation of civil society in the decision making process.

Another relatively good example was the progress of work on the draft Law on Equality.

It included regular meetings and constructive dialogue between civil society (including ‘watchdog’ NGOs) and government representatives (primarily from the Ministry of Justice). The incentive for the authorities again was to receive financial support from the EU. The final outcome of the process, however, is still unclear, as this type of legislation faces strong propaganda attacks from groups ‘protecting traditional values’ and supported in most cases by Russian institutions. As in Russia itself, laws against discrimination, domestic violence and alike are perceived by those groups as injecting ‘false European values’.

CONDITIONS FOR POLITICAL REFORMS AND PARTICIPATION OF CIVIL SOCIETY IN DECISION MAKING

A lack of political will for wider dialogue has always been a characteristic feature of the Armenian Government. Even when prioritising reforms, it considered itself as the only appropriate decision maker that is more interested and knows better than anyone else what needs to be done and how. At the same time, practically never in the history of independent Armenia has the Government had sufficient power to implement reforms through purely authoritarian means. In different periods with the Karabakh war and prevailing military interests, strong political opponents or oligarchic elites with their narrow priorities and crucial role in electoral processes, the shocking effects of the terrorist act of October 27, 1999, competing geopolitical influences, etc. were obstacles to a consistent reform agenda. In this context civil society as such could not be viewed as a player to be seriously taken into consideration. Only external factors provided for acknowledgment of CSOs as legitimate stakeholders in policy-making.

The promotion of civil society by the international community (EU, CoE, OSCE and others) in different stages of their engagement with the

Armenian reforms agenda was not the same. Initially it was simply public criticism voiced by civil society and sharing information with international actors. Sometimes this was enough to improve official policies. Then there was a period when the country’s leadership invented methods to channel an essential part of international attention and funding towards NGOs controlled in one way or another by government structures. On the one hand participation was being demonstrated, but on the other hand no added value in the form of alternative approaches was being achieved.

Significant improvement in terms of civil society participation happened in Armenia after the launch of the Eastern Partnership in 2009 and especially in the course of negotiations on the Association Agreement with EU. The ambitious plan of the European integration of Armenia raised demands for a ‘piece of reality’ regarding implementation by the national government of the commitments in the framework of bilateral relations. The importance of studies such as ‘European Integration Index of the Eastern Partnership Countries’ increased. This was correctly perceived by Armenian authorities as a stimulus for working at a higher speed to adopt European standards.

After the U-turn of Armenia in 2013 the situation radically changed. Ambiguity on the future of EU-Armenia relations made the role of civil society uncertain as well. External support of NGOs, which had always been the major factor for their sustainability, lost its clear vision. EU aid to the Armenian state was directed rather to maintaining bilateral ties rather than to enhancing consistency of reform. Similarly, the grants for strengthening civil society and promoting its dialogue with the government did not contribute much to meaningful participation. The absence of legally binding commitments and also of concrete expectations from the partner country opened up a space to imitate dialogue. This situation allowed the government in several

cases to promote ‘convenient’, ‘non-problematic’ NGOs and to create an illusion of ‘cooperation and agreement with civil society’. Given that a certain level of consensus on legislative and policy issues is quite frequently a precondition for the external support of the government itself, the ‘deal’ is mutually beneficial for both the latter and ‘pocket NGOs’. This practice proved its ‘efficiency’ especially in principal major area such as fighting corruption.

Of course, other obstacles and internal problems of civil society also negatively affect its engagement in decision making: the weak links of NGOs with the broader public, a lack of trust among each other and the inability (or unwillingness) to come up with a consolidated position caused by ‘professional’ ambitions, competition for the sympathy of donors, etc. However, these obstacles seem to be avoidable if the political will and openness of Armenian Government for meaningful participation of CSOs in decision making can be stimulated again (as in the final stage of negotiations on the Association Agreement).

In this sense when speaking about an enabling environment for civil society in Armenia, not only national factors (e.g. legislation on freedom of association, freedom of expression and information, freedom of assembly, etc., which are more or less secured in the country) but also the international context has to be taken into account.

In an ambiguous situation as described above, non-institutional forms of civic activism proved to be more result-oriented than the advocacy efforts of ‘conventional’ NGOs. Informal environmental movements raised enthusiasm among young people and gave rise to the belief that problems could be resolved faster through mass street protests than through formalised consultations and debates. It is commonly accepted in Armenia that signing a letter to the Government by 5,000 people has less affect than the same 5,000 taking the streets. New commu-

nication resources enable crowds to be mobilised quickly for protests. In recent years social issues have become the main triggers for mass protests. Actions against the hike in transport (2013) and electricity (2015) prices, against the cumulative pension system (2014) forced the Government to negotiate and compromise with protesters. These forms of influence on decision making by informal civil society helped to temporarily and partially suspend some undesirable changes, but not to constructively resolve existing problems. Therefore, after certain period when informal civil activism in Armenia was idealized, it is currently assessed by many as exhausted and no longer trustworthy. The main reason is that they lack strategic vision and are susceptible to manipulative political influences. Some of the proponents of street protests are inclined to join institutional civil society, which is an additional argument for prioritising the meaningful participation of NGOs in decision making.

HOW THE MORE-FOR-MORE PRINCIPLE AND CONDITIONALITY WORK IN ARMENIA

The incentives to enhance structural and any other reforms prescribed by the context of EU-Armenia relations are based on two major challenges for Armenia: its poor economic performance and security threats. The European Union remains the main donor for the country and the leadership there understands that deepening bilateral relations could result in financial aid. Direct financial support from the EU is the factor allowing the national Government to operate in a stable environment. Also cooperation with the EU, its institutions and member states is viewed as the main potential channel for investments in the Armenian economy. That is why Yerevan was strongly lobbying for a donors’ conference sponsored by the EU yet prior to the conclusion of negotiations on the Association Agreement/Deep and Comprehensive Free Trade Area.

The second challenge is security and specifically the protracted conflict with Azerbaijan regarding Karabakh, as well as its proximity with the historically hostile Turkey. It is well understood in Yerevan that security could be ensured only through a diversified foreign policy – ‘complimentarism’, where the European Union was expected to play a crucial role. Despite the actual failure to implement this strategy and appearing to be under the dominating influence of Russia in security/military sphere, the Armenian leadership will continue looking for alternatives, as there are no guaranties that the national interests of this strategic ally will always coincide with those of Armenians.

Even though the new EU-Armenia framework agreement – on which negotiations were concluded in February 2017 – does not provide for a free trade area or essential cooperation in security sphere, it still is considered as a window of opportunity for a much broader engagement with European partners in the future. At the same time, it cannot be said that the European Union was using the whole leverage available to promote reforms in Armenia. Either the expectations from the country were low, or the potential of pushing for reforms in Armenia was underestimated.

In this sense, the ‘more-for-more’ principle worked in the case of Armenia for a short time only: the willingness of the country to implement reforms in some areas, which was obvious in 2009-2011, opened up the perspective for association with the EU simultaneously with the front-runners of Eastern Neighbourhood Policy (ENP)-East Ukraine, Georgia and Moldova. Neither before this period, nor after Armenia’s U-turn in 2013, was conditionality properly applied. One of the main reasons for it was the absence of appropriate mechanisms for an independent assessment of reform progress. Genuine civil society, being interested not just in raising the status of Armenia in the ENP/EaP, but in a real and consistent reform process, could become the provider of critical assessment and came quite

close to this function in 2011-2013: however the change in the situation in the region diminished its role in Armenia.

It could be said now that the ‘more-for-more’ principle is not properly applied by the EU towards civil society itself. Despite permanent and convincing criticism of the system of support provided to CSOs, nothing has improved essentially during the last years. Still the real background of the organisations receiving EU funding is not taken into account properly. There are many examples when huge resources are placed at the disposal of NGOs that demonstrate no commitments or ambitions to promote changes. In the best cases they accurately implement activities having a low relevance to actual needs, and in the worst cases they are engaged in corruption (two recent criminal court verdicts against beneficiaries of EU grants prove this sad reality).

NEW ENP AND ITS PREROGATIVES (SECURITY, STABILITY) APPLY TO ARMENIA

The advantage of the new ENP is a differentiated, tailor-made approach to each of the Eastern Partnership countries. It is especially relevant for Armenia, which differs by its geopolitical choice from the three having an Association Agreement with EU, but has even fewer commonalities with the other two.

At the same time, the focus on security and stability, being an important factor for the EU and those partners which chose the prospect of membership to the Euro-Atlantic integration structures, has limited relevance for Armenia. This country is part of an alternative security system, its newly negotiated framework agreement with the EU contains practically nothing essential on security and although Yerevan, as mentioned above, will seek ways for closer cooperation with Brussels in as many areas as possible, this is not sufficient to be rated as ‘a priority issue’.

Cooperation in such areas as democratic institutions, human rights, good governance, fighting corruption provides a solid foundation to consider stability as part of a priority agenda in bilateral relations. At the same time, the concepts of stability in the EU and in the countries which Armenia joined in the Eurasian Economic Union are quite different. And the fact that there is an exceptional clause in the Comprehensive and Enhanced Partnership Agreement (CEPA) stating primacy of the Eurasian Economic Union (EEU) over CEPA, raises questions towards which of those models Armenia will move.

What sounds optimistic is that CEPA includes many elements similar to the Association Agreements. One of them is a bilateral EU-Armenian civil society platform. Given the fact that genuine CSOs, contrary to political entities (including parties), proved to be the most consistent supporters of Armenia's European integration, their institutional role in the partnership should not be underestimated. Depending on how previous positive and negative experiences described in this policy brief would be utilised, the proximity of the Armenian model to either 'European' or 'Eurasian' ones, and the status of civil society as an entity balancing the state and promoting transformation, will be determined accordingly.



Counterbalancing the State – How Civil Society Promotes Transformation in Ukraine

Iryna Solonenko

The Revolution of Dignity in Ukraine has opened a window of opportunity to overhaul the old system of governance that prevailed in Ukraine since it gained independence and developed a new social contract. Civil society has been the driving force behind this transformation that has taken root since the Revolution of Dignity. This article examines the multiple roles civil society has played in pushing for and supporting such transformation by analysing the relationships between civil society and three other actors: the state, broader society, and external actors.¹ It shows that in order to be successful in the task of promoting the new social contract, civil society in Ukraine has developed (and matured) far beyond the role of counterbalancing the state, but has acquired a new proactive stance *vis-à-vis* different actors, and so has put itself in the *avant-garde* of the reform process.

UKRAINE AFTER THE REVOLUTION OF DIGNITY: WHAT TASK FOR CIVIL SOCIETY?

After the Revolution of Dignity, Ukraine received a unique chance to interrupt the vicious circle of partial reforms and make a breakthrough towards a new social contract. This happened due to the fact that Ukrainian society, or at least the most active part of it, has proved that it is an actor and that it can shape the course of events

in its country. If it were not for the ability of the people to stand up for their dignity, developments in Ukraine would have continued to be determined by autocratic leaders like its former president Viktor Yanukovich together with some oligarchs or Russia's imperial ambitions.

The Revolution of Dignity (also known as Euro-aidan) achieved the transition of power by holding new elections for key political institutions, but the real aspiration of the protests was that of transforming Ukraine from what academic literature calls 'limited access order' (or natural state) towards 'open access order',² that is, from a system of governance where the powerful engage in rent-seeking behaviour and restrict competition to a system governed by neutral standards and competition, one therefore that provides a wide spectrum of individuals and organisations with democratic participation and access to resources. Another definition often used in literature, which is synonymous with 'limited access order' is that of a 'captured state', which defines a system where 'the basic rules of the game are shaped by particularistic interests rather than by the aggregated national interest.'³

In fact, in Ukraine's 25 years of independence, a system evolved whereby a handful of rich men gained unique access to public resources, including influence over decision making by public institutions. The latter have consolidated the privileged position of these individuals compared to the majority of society. These individuals have come to own the most popular and influential TV channels and continue to finance political parties. This has allowed them to have their interests represented in public institutions, including the courts, and to preserve monopolies over entire sectors of the economy, while

¹ This contribution adopts a broad definition of civil society as 'the sum of institutions, organisations, and individuals located between the family, the state, and the market, in which people associate voluntarily to advance common interests' (Helmut K. Anheier, *Nonprofit Organisations. Theory, Management, Policy*, London 2005, p. 9. Cf. also Michael Edwards, *Civil Society*, Cambridge 2014). From this perspective, civil society includes both formally registered organisations and informal, spontaneous coalitions of citizens.

² See Douglass C. North, John Joseph Wallis, and Barry R. Weingast, *Violence and Social Orders: A Conceptual Framework for Interpreting Recorded Human History* (Cambridge, 2009).

³ This definition is suggested by the *Encyclopedia Britannica*.

engaging in rent-seeking behaviour – that is, extracting profit from public resources. Even now, three years after Euromaidan, the assets of the one hundred richest Ukrainians equal approximately one fourth of Ukrainian GDP, and 60% of these assets belong to only ten individuals.⁴

It is therefore no less than this ambitious task that civil society in Ukraine saw for itself the very moment: The protests in Ukraine were over and the new transition government came to power. Pursuing this task means playing multiple roles and successfully interacting with other actors who play a role in the reform process.

CIVIL SOCIETY AND STATE: AGENDA SETTER, EXPERTISE PROVIDER, WATCHDOG AND HELPER OF THE WEAK STATE

Civil society-state relations are vital for the development of civil society. The state matters for the activities of civil society in four respects. First, it creates the overall ‘operating environment’, which depends on the state of democracy and rule of law. Aspects of democracy such as freedom of association, freedom of peaceful assembly, media freedom, a free and fair judiciary and access to public information matter a lot and affect civil society directly. Second, the state creates a very specific environment for the functioning of civil society, known as the ‘regulatory framework’. This covers registration procedures, taxation policies, and other very specific matters that regulate routine aspects of the everyday functioning and work of civil society organisations. Third, many civil society organisations aim at influencing the state and its policies, particularly those that are involved in advocacy. To what extent are the state and its various bodies ready to listen to and cooperate with civil society? Is this co-operation institutionalised and regulated by certain procedures,

that, for instance, oblige officials and civil servants to take on board proposals made by civil society, or at least respond to them? Whether civil society is taken seriously and can affect public policy depends directly on the responsiveness of the state. Fourth, civil society organisations can also partially play the role that the state itself is supposed to play. The state can outsource areas of responsibility, such as the provision of social services, to non-governmental organisations, for instance, by sub-contracting to them care of the homeless, elderly people, or people with special needs. This model works very effectively in many countries, especially if the state provides funding and other necessary conditions for these activities.

After Euromaidan the Ukrainian state found itself in a weak position, deprived of legitimacy, a functional army able to withstand external military aggression and financial resources, but being able to provide for a free operating environment for civil society. Civil society took advantage of this situation and took a proactive stance towards shaping the state’s policies. It has been able to play multiple roles *vis-à-vis* the state, even though some of these roles might seem to be contradictory. For instance, providing expertise to the state and at the same time criticizing the lack or slow pace of reforms might not go well together at first sight. Some other roles, such as an agenda setter or helper of the weak state are relatively new for Ukrainian civil society and show that it has matured compared to previous years.

While numerous civil society initiatives have embarked on these tasks, one of the most prominent examples worth noting is the coalition of thinktanks and experts – the Reanimation Package of Reforms (RPR), which was launched immediately after Euromaidan. RPR brought together over 70 NGOs and 23 expert groups

⁴ The weeklies *Forbes*, *Novoye Vremia*, and *Fokus* undertake assessment of assets annually. The figures differ somewhat due to a different methodology of assessment, but the relative figures in the context of GDP are the same.

on various issues,⁵ thus consolidating the expertise civil society in Ukraine has acquired over years. The RPR develops annual roadmaps with reform agenda for different public authorities and agendas for the parliament for each plenary week. RPR also makes regular statements on the reform process and produces analyses of various issues. Crucially, the RPR has a counterpart in the parliament – the Platform of Reforms – which is a group of MPs from different parties. The RPR also established the Reforms Support Centre to the Cabinet of Ministers. It aims to create a bridge between the government and the RPR. Several RPR activists were elected to parliament in the October 2014 elections, and they serve as important interlocutors as well. It is through these links that the RPR supplies expertise to public authorities. Up until now the RPR has contributed to the development of over 200 bills (or rejection of bills that would have had a negative impact).

Civil society experts have also been members of various selection committees for employees of the new institutions. This includes the new patrol police, employees of the Anti-Corruption Bureau, State Secretaries of the Ministries as a part of the implementation of civil service reform and other institutions. At the same time, RPR and various NGOs remain critical of the public authorities and organise street actions or other pressure activities to make the authorities adopt certain decisions, which also includes constant monitoring of the reform process (serving as a watchdog). Initiatives as VoxUkraine,⁶ with its weekly Index for Monitoring Reforms (iMoRe),⁷ are particularly instrumental in monitoring reforms. Due to their visually attractive presentation of findings, they have stronger impact.

As the war in Donbas broke out, the Ukrainian army was in bad shape and it took time before it could recover. The war also caused a large

number of internally displaced persons (IDPs) with the state being unable to deal with the challenge. For instance, it was only in April 2016, two years since the war started, that the Ukrainian government created the Ministry of Temporarily Occupied Territories and IDPs. Until now the Ministry has been under-resourced and underfunded. In this situation a number of volunteer initiatives appeared that provide both support to the army and volunteer battalions and internally displaced persons. Many of them have by now started working professionally, supported by international donors. It is in this capacity that civil society has substituted the state in performing the tasks the state should perform, but has been unable to do so.

CIVIL SOCIETY AND BROADER SOCIETY: RAISING AWARENESS AND MOBILISING SOCIAL ACTION

To be successful in advocacy, civil society needs to be able to mobilise broader reaches of society. This presupposes an ability to reach out to society with its messages, but it also implies that there is a certain degree of trust between the people and the representatives of civil society organisations. Both components have seen improvement since Euromaidan. Although media with a broad reach is concentrated in the hands of oligarchs who own most of the major TV channels and newspapers, civil society has made increasing use of the internet to transmit its messages. For instance, the number of internet users in Ukraine grew rapidly, to 65% in February 2016, up 8% compared to February 2014.

Due to this trend and better communications skills with the media (via press conferences and by producing visually attractive and concise information products) civil society has been able to reach out to public opinion. The boom in investigative journalism and media coverage

⁵ See the RPR website at www.rpr.org.ua

⁶ www.voxukraine.org/en/

⁷ www.voxukraine.org/category/projects/imore-en/

of corruption cases contribute to this. Numerous internet resources exposing corruption at the highest level were launched and have gained a broad audience, also through television programs, which was not the case before.

The growth of social capital in Ukraine has been remarkable, the trend that has its roots in Euromaidan protests, where civil society organisations, voluntary initiatives and ordinary people played a decisive role (in contrast to political parties). All public opinion polls since Euromaidan recorded the highest trust in volunteer initiatives compared to other institutions (state and private) among the people. The poll in December 2016 by the Democratic Initiatives Foundation showed that the trust in voluntary initiatives exceeded mistrust by 44%. Today, more people than ever are eager to donate to voluntary initiatives that provide support to the army, volunteer battalions, and the civilian population affected by the war. Moreover, after Euromaidan the level of trust in civil society among broader society exceeded the level of mistrust for the first time since independence and this perception has prevailed until now, as recorded by various public opinion polls.

A number of local initiatives aimed at urban development, more transparent and efficient use of funding at the local level, mobilising social action by people in smaller communities, have also appeared. This is particularly important, given that due to fiscal decentralisation local communities have been able to increase their revenues. Participation of citizens in developing projects to be funded and making sure that funding is used efficiently are very practical ways of making the state serve the interests of the society. It is at this level that more capacity-building is needed to develop more of such initiatives and empowering the existing ones with ICT tools and other instruments for mobilising social action.

CIVIL SOCIETY AND EXTERNAL ACTORS

After the transition of power in Ukraine in 2014, the European Union (EU) and other donors were quick to offer a new support package. The EU, the World Bank and the European Bank for Reconstruction and Development offered support totalling €11 billion for the period leading up to 2020, of which up to €1.4 billion consists of bilateral grants, while the remainder is made up of loans. Numerous technical assistance projects were launched to provide expertise and capacity-building to Ukrainian authorities and to support the reform process. Moreover, the Association Agreement was signed and partially came into force, providing an important framework for the reform process.

However, this kind of assistance would not have sufficed were it not for conditionality, an important tool, which donors have made increasing use of in dealing with Ukraine. On top of that, international actors have increased their cooperation with civil society as a partner. It has become a regular practice that high level visits to Ukraine from the EU, IMF and member states have meetings with civil society representatives as a part of the official agenda, often before meeting public authorities' representatives.

The latter has to do with the increased professionalism of civil society. Thus, it was due to cooperation between civil society and international donors that important conditionality on anti-corruption reform, judiciary reform, civil service reform and other important reform areas was included in relevant documents and became an important tool of advocacy for those reforms on the part of civil society. This phenomenon is known as the 'sandwich effect', meaning that combined pressure from below and outside can produce the best results.

Another important function of cooperation between donors and civil society is that of capacity building, particularly for initiatives at the local level and when it comes to developing professional advocacy by interest groups. Such groups could include alternative trade unions (as opposed to those controlled by large enterprises) and consumer protection associations that could push for implementation of various very specific provisions of the Association Agreement with the European Union (such as safety in the workplace and food safety). Unlike professional civil society, dealing with reform process, whose implications are not felt by society immediately, such initiatives and groups are directly exposed to issues that have practical meaning to many people.

CONCLUSIONS

Promotion of the new social contract in a 'captured state' means that society should acquire a new representative function or role it has not had before, basically counterbalancing the state, which is captured by particularistic interests, with civil society standing for the public good. To be

able to effectively pursue this objective, civil society in post-Euromaidan Ukraine has had to re-define itself, both in terms of its relations with other actors that are central to the reform process and in terms of the multiple simultaneous roles it has to play. Post-Euromaidan transformation in Ukraine has been slower than hoped for, it has seen a lot of set-backs and resistance from the old system. At the same time it has seen more successes than any time since Ukraine gained independence in 1991. It has been largely due to civil society and its ability to take the initiative and effectively interact with other actors that a lot of successful reforms in Ukraine have been initiated. Yet Ukraine has still not passed the threshold of irreversibility of transformation towards becoming an open access order, a more inclusive and accountable system of governance. Therefore, the current challenge for civil society in Ukraine and its international partners is that of putting the emphasis on implementation and enforcement of reform initiatives. Numerous decisions and laws passed hitherto are not sufficient as long as they do not become wide-spread practice and rules of the game that cannot be challenged.



CURRICULUM VITAE

Authors



David Aprasidze
 Scientific Coordinator,
 Civil Society,
 Dialogue for Progress

David Aprasidze is scientific coordinator of the project in the South Caucasus, based in Tbilisi, Georgia. He is a professor of political science at Ilia State University. From 2010 to 2012 he was Dean of Graduate Studies at Ilia State University. From 2008 to 2009 he was chairman of the Caucasus Institute for Peace, Democracy and Development (CIPDD), one of the leading think tanks in Georgia. He studied politics at Tbilisi State University and received his PhD in political science from the University of Hamburg in Germany. In 2009 he was awarded a Fulbright scholarship to conduct research at Duke University. His fields of research include post-Soviet transformation, foreign policy decision making, and Georgia's political institutions.



Shahla Ismayil
 Gender Expertise –
 Organisational Development –
 Communication Advocacy

Shahla Ismayil is a philologist of English language by education (BA and MD), later retrained as an expert on human rights, gender equality and peacebuilding. Since 2014 Shahla is a fully certified international expert on Human and Institutional Capacity Development (HICD). Since 1998 Shahla has been engaged in the public activity to empower women with knowledge and consciousness to be equal and active citizens of the country. Shahla Ismayil has been a founder and chairwoman of Women's Association for Rational Development since 2002; the advisor of Global Fund for Women since March 2002 and Urgent Action Fund for Women's Rights since March 2011. Since 2005 she has been the

Attorney of Human Rights House Foundation (Norway) in Azerbaijan. In 2014, Shahla created the 'Gender Port' for-profit company laying the foundation of the first commercial think tank and service provider with a gender-oriented profile. She has been the author and director of over 70 national and international projects; and author of over 100 publications, reports and policy papers. Among her achievements in Azerbaijan is the establishment of the first Maternity School, the first Women's Parliament, the first Women's Chambers at local Municipalities, the first Gender Expert Group, etc.

Since 2010 Shahla Ismayil has been engaged in business projects. She is a member of the Management Board of CONTRAST Company, a first HR and organisational development company in Azerbaijan. She is a co-author of BAKU model (Business Assessment and Knowledge Upgrade). Besides, she has founded two business projects (CUPPULU and NEST) and since 2012 she is a member of '100 Business Women of Azerbaijan'. In 2013 she was invited to head the Gender Block of the project 'Healthy Education – Healthy Nation' of the National Center for Educational Technologies (NCET) collaborating closely with the Ministry of Education of Azerbaijan.



Vladimir Korzh
 Director of NGO ACT

Vladimir Korzh has been working from 1995 onward in and for CSOs in Belarus and abroad as a trainer and consultant in civil society organisations and local communities development. Currently he is Director of International Educational NGO 'ACT' based in Minsk, Belarus, operating locally and internationally.

For more than seven years together with his colleagues from ACT he has been coordinating and promoting advocacy campaigns and relevant activities to create more favourable environment for Belarusian CSOs. Vladimir Korzh leads the evaluation of Civil Society Organisation Sustainability Index in Belarus

performed since 2008 by ACT as a national partner of USAID.



Maria Lando

Communication Manager and
Consultant of ACT

Maria Lando regularly provides assistance, training, monitoring and evaluation services in the issues of communications and organisational development for civil society organisations in Belarus. She possesses a special interest in advocacy in favour of CSOs, their image and impact in decision-making. Together with Vladimir Korzh she coordinates the process of assessing sustainability of the CSO sector in Belarus, developing the report 'Civil Society Organisation Sustainability Index (CSOSI) – Belarus' performed since 2008 by ACT as a national partner of USAID.



Stephan Malerius

Deputy Head of Finance and
Project Administration at
Konrad-Adenauer-Stiftung (KAS)
in Berlin

Stephan Malerius is Deputy Head of Finance and Project Administration at KAS in Berlin. From September 2013 to December 2016 he was team leader of the EU-funded Technical Assistance project 'Strengthening non-State actors' Capacities to Promote Reform and Increase Public Accountability'. The project was implemented by a consortium of nine organisations, led by KAS and aimed at facilitating the involvement of civil society organisations in policy dialogue in the Eastern Partnership region. He was head of an international team based in the project office in Kiev, and responsible for the overall coordination and supervision of project activities in Armenia, Azerbaijan, Belarus, Georgia, Moldova and Ukraine, for liaising with EU-Delegations in these six countries and for reporting to the European Commission in Brussels. From November 2011 to

November 2013 Stephan Malerius was Head of Evaluation Division at KAS in Berlin, in charge of coordinating independent evaluations of KAS international cooperation projects, training of KAS representatives in program monitoring and of quality control of all applications and reports to the German Ministry of Economic Cooperation. From 2007 to 2011 Stephan Malerius headed the KAS country office Belarus, based in Vilnius, Lithuania. Before joining KAS he was Senior Project Coordinator at Berlin based NGO German-Russian Exchange (1999-2006).



Igor Munteanu

Managing Director of Institute
for Development and Social
Initiatives

Igor Munteanu is acting today as Managing Director of the Institute for Development and Social Initiatives (IDIS) Viitorul Administrative Board. IDIS is one of the oldest research and advocacy think tanks in Moldova. Today, it successfully combines social, political and economic research with solid advocacy components. IDIS undertakes applied field research in political sciences and economic analysis, governance and law, maintaining a number of social networks on social policy analysis, decentralization, EU and Russia policies, public sector reforms and post-conflict rehabilitation. Igor Munteanu is also teaching a public policy course at the Academy of Economic Studies in Moldova (ASEM). The latest publication authored by Igor Munteanu is 'Politici publice complexe' (2016, Cartier Publishing House). Previously, he served as E.P. Ambassador of the Republic of Moldova to the United States of America (September 2010–June 2015), Canada (February 2011 – March 2013) and Mexico (2010-2015). Before 2010, Igor Munteanu led IDIS Viitorul, an influential think tank in Moldova. He served in the International Board of Policy Association Network (PASOS) between 2008-2010. He was also teaching Public Policy Seminars at the ASEM (2005- 2010). He served as Independent Expert

to the Institutional Committee of the Council of Europe (2001-2008), implementing country-assessment assignments in the areas of self-governance and resilience of democratic institutions at the regional level. In 2007, Igor Munteanu served as a member of the International Board for the Black Sea Trust Fund (BSTF) and also a Member of the External evaluation committee of the Balkan Trust for Democracy (BTD). He designed and launched the publishing of the *Arena Politicii* Journal, as the first political sciences and foreign affairs journal in Moldova (1996-2000). In 2002, he pursued his PhD at the Law Department of the free International University of Moldova ULIM on Moldovan and EU regionalism. He wrote and edited a number of studies and books on political transition after USSR, economic modernization and regional economies. Between 1997 and 2005, Igor Munteanu was involved as freelance political analyst with Radio Free Europe (RFERL). He also served as political advisor to Mircea Snegur, the first President of Moldova during 1992-1994.



Boris Navasardian
President of the Yerevan
Press Club

Since 1995 Boris Navasardian is the President of Yerevan Press Club, the first journalistic association established in post-Soviet Armenia. Making an impressive career as columnist, chief-editor, host of TV shows, lecturer in journalistic schools, he in the same time is active participant of civil society development, regional cooperation and Europeanization. From 2002-2006 Mr Navasardian acted as Board chair of the Open Society Institute Armenia. From 2005-2007 he was member of Council of Europe's expert group on 'Freedom of expression and freedom of information in times of crisis', as well as in 2016 provided expert services to the CoE project on civil participation in decision making and to the preparation of respec-

tive guidelines. Since 2009 Boris Navasardian is actively engaged in the Eastern Partnership Civil Society Forum in the capacity of country facilitator for Armenia, coordinator of the Working Group on Democracy, Human Rights, Good Governance and Stability and Co-Chair of the CSF Steering Committee. He also implemented and participated in several researches such as 'European Integration Index of the EaP Countries', 'EaP Media Freedom Watch', 'Monitoring of Democratic Reforms in Armenia', 'Civil Society Participation in Policy Dialogue', 'Propaganda: Deepening the Gap in Mutual Understanding', 'Monitoring of Media Coverage of Elections' and many others.

Iryna Solonenko

Project Manager at Kyiv Dialogue
and Associate Fellow of the
Robert Bosch Centre for Central
and Eastern Europe, Russia,
and Central Asia of the German
Council on Foreign Relations



Iryna Solonenko has been a Project Manager at Kyiv Dialogue, a major German-Ukrainian civil society platform, since June 2017; Associate Fellow of the Robert Bosch Centre for Central and Eastern Europe, Russia, and Central Asia of the German Council on Foreign Relations (DGAP) since May 2015; and researcher at the European University Viadrina, Frankfurt/Oder since October 2012. Apart from that she has been serving as an independent expert with the Bertelsmann Transformation Index, European Integration Index for Eastern Partnership Countries, V-Dem Institute, German political foundations and other institutions in Germany and Europe. Between 2000 and 2012 Iryna Solonenko worked with the International Renaissance Foundation in Ukraine as the Director of the European Programme and with the EastWest Institute in Kiev as a project manager. Iryna Solonenko holds degrees in international relations, European studies, public administration and history from the Central European Uni-

versity in Budapest, the National Academy of Public Administration in Kiev, and the National University Kyiv-Mohyla Academy in Kiev. During 2006-2007 she was visiting Research Associate at the University of Birmingham.



Sabina Woelkner

Programme Director of the
Multinational Development
Policy Dialogue, Konrad-
Adenauer-Stiftung (KAS), Brussels

Since April 2014, Sabina Woelkner is Programme Director of the Multinational Development Policy Dialogue of KAS in Brussels. The aim is to shape and consolidate the dialogue between the European Union, NATO and KAS Partners worldwide with a focus on development, democratisation, human rights, climate/energy and security. 2014-2015 Sabina Woelkner was also Director of the EU co-funded project on enhancing the dialogue on effective development assistance between the EU and

the European Network of Political foundations (ENoP). Prior to this, she was Head of the KAS office in Sarajevo (2009-2014). In Bosnia and Herzegovina KAS supports democratisation of political parties, EU integration, reconciliation and understanding among ethnic groups and religious communities. Before Sabina left for Sarajevo, she supervised KAS projects in Western Europe/United States at the headquarters in Berlin. Previously (2004-2006), she was Resident Fellow and Head of the Central Europe Programme at the German Council on Foreign Relations, Berlin. In 2006-2007, she was fellow of the Dräger foundation in cooperation with the American Council on Germany and the ZEIT Foundation (ADZ). Sabina is member of the Gemeinschaft für studentischen Austausch in Mittel- und Osteuropa (GFPS), The Southeast Europe Association and The German Association for East European Studies (DGO). She holds a master's degree in political science and East Slavic languages of the University of Mannheim and studied in Mannheim and Warsaw.



COUNTERBALANCING THE STATE HOW CAN CIVIL SOCIETY PROMOTE TRANSFORMATION?

Brussels, 30 November 2016

Venue: Thon Hotel EU

Room: The Netherlands III

Rue de la Loi 75 – 1040 Brussels

11.00 Registration

11.30 Panel I – Re-capturing the state – conditions for effective CSO-advocacy

Good practices of CSO lobbying – what are the necessary pre-conditions?
CSOs vs. oligarchs and CSOs vs. autocrats – what (resources) is needed?

Moderator

Mr. Stephan Malerius, Teamleader Civil Society Dialogue for Progress, European and International Cooperation, Konrad-Adenauer-Stiftung, Berlin

Panellists

Ms. Diana Jablonska, Deputy Head of Unit, Dir C.2: Armenia, Azerbaijan, Belarus and Eastern Partnership, Neighbourhood East, DG NEAR, European Commission

Ms. Iryna Solonenko, Expert and Founder of the Eastern Partnership Index, Ukraine

Ms. Shahla Ismayil, Women's Association for Rational Development, Azerbaijan

13.30 Lunch

14.30 Panel II – Conditioning transformation – how can EU help civil society to pressure on governments to implement reforms?

Conditioning vs. Realpolitik? Where is conditioning working, where not; what is needed?

Moderator

Ms. Sabina Woelkner, Programme Director, Multinational Development Policy Dialogue, Konrad-Adenauer-Stiftung, Brussels

Panellists

Mr. Boris Navasardian, Yerevan Press Club, Armenia

Mr. Vladimir Korzh, Educational Center AKT, Belarus

Mr. David Aprasidze, Ilia State University, Georgia

16.30 Closing remarks



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