

# **CODE OF CONDUCT FOR CIVIL SOCIETY – PUBLIC DIALOGUE/RELATIONS IN THE EU AND THE WORLD**

## **Findings of desktop research**

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## **1. Introduction**

The aim of the desk research is to gain a full understanding of aspects, elements, documents and practices of CSO – Government cooperation in the EU and the world and to provide a basis for the development of a code of conduct for civil society – public dialogue/relations in Turkey. The purpose of the desk research is not a thorough analysis of all aspects of CSO – Government cooperation, but rather to provide an overview with the reflection on practice. The latter is especially important for recommendations in order for Turkey to avoid obstacles and traps that occurred in other countries.

The report explains basic terms and principles of CSO – Government cooperation, provides detailed overview of 14 countries, comparative overview of countries, good examples and recommendations for the improvement of CSO – Government relations in Turkey. The report is based on legal and policy documents (mostly available on-line), research studies and reflections on implementation and practice. In the course of gathering data we checked their accuracy with leading CSOs from the respective countries. When choosing the countries for the desk research we tried to cover different models, traditions and geographical scope. We put more focus on countries where CSO – Government cooperation is somewhat more structured to provide as useful examples as possible. Due to a budget and time restraints not all countries are covered in the same depth.

## 2. Glossary of terms

For better understanding of the report we prepared the glossary of terms that are frequently used throughout the report. The term is explained in a way that is used in this report; while there can be some other explanations for different opportunities.

**Advocacy:** Advocacy is about influencing those in power to act in more equitable ways.

Advocacy can be done directly by those affected by injustice or on their behalf, or by a combination of both. Advocacy work includes many different activities such as lobbying, mobilisation, education, research and networking. It can be undertaken alone, with a group of people or as part of a network. It can be spontaneous or carefully planned, a one-off intervention, or an ongoing process. (TACSO 2010: 1)

**Civil dialogue:** is the ongoing and structured conversation that policy-makers maintain with the organisations of civil society. ([http://www.wikipreneurship.eu/index.php5?title=Civil\\_dialogue](http://www.wikipreneurship.eu/index.php5?title=Civil_dialogue))

**CSO – Government Cooperation:** dialogue between CSOs and the Government to foster development of CSOs and/or to include CSOs in the decision-making process. Used as a synonym for civil dialogue.

**CSO – Government collaboration:** working together to achieve a goal, commonly used as a synonym for cooperation.

**Citizens (public) participation in the decision-making process:** Participation includes people's involvement in decision-making processes, in implementing programmes, their sharing in the benefits of development programmes and their involvement in efforts to evaluate such programmes. (TACSO 2010: 11)

**Civil society organisation:** Any organisation, formal or informal, falling within civil society. Typically civil society organisations include community-based organisations, non-governmental organisations, indigenous people's organisations, women's organisations, faith-based organisations, professional associations, trade unions, self-help groups and social movements. (TACSO 2010: 4)

**Government:** includes a Government as such, ministries and other public bodies. Therefore it is used as a synonym for public administration.

**Enabling environment for CSOs:** The set of conditions - often inter-related - that impact the capacity of citizens and civil society organizations to engage in development processes in a sustained and effective manner, whether at the policy, program or project level. They include legal, regulatory and policy frameworks, and political, socio-cultural and economic factors. There are institutional factors within civil society that should be considered in thinking about this environment. (TACSO 2010: 6)

**Good governance:** is, among other things, participatory, transparent and accountable. It is also effective and equitable. And it promotes the rule of law. Good governance ensures that political, social and economic priorities are based on a broad consensus in society and that the poorest and most vulnerable members of society are heard in decision making over the allocation of development resources. The core characteristics of good governance include:

- o *Participation* - all men and women should have a voice in decision-making, either directly or through legitimate intermediate institutions that represent their interests.

- o *Rule of law* - Legal frameworks should be fair and enforced impartially, particularly the laws on human rights.

- o *Transparency* - built on the free flow of information. Processes, institutions and information are directly accessible to those concerned with them, and enough information is provided to understand and monitor them.
- o *Responsiveness* - institutions and processes try to serve all stakeholders.
- o *Consensus orientation* - Good governance mediates differing interests to reach a broad consensus on what is in the best interests of the group and, where possible, on policies and procedures.
- o *Equity* - All men and women have opportunities to improve or maintain their well-being.
- o *Effectiveness and efficiency* - Processes and institutions produce results that meet needs while making the best use of resources.
- o *Accountability* - Decision-makers in government, the private sector and civil society organisations are accountable to the public, as well as to institutional stakeholders.
- o *Strategic vision* - Leaders and the public have a broad and long-term perspective on good governance and human development, along with a sense of what is needed for such development. (TACSO 2010: 7)

**Policy dialogue:** Policy dialogues are carefully constructed, deliberative meetings that address regulatory, policy, or planning issues that are of common interest. Generally speaking, policy dialogues seek to exchange information and build consensus recommendations between the public, private, and civic sectors through leaders who are in a position to forge alliances, make decisions, or strongly influence the trajectory of a possible solution to a challenging issue. Policy dialogues go by many names. Some call them "Roundtables" or "Issue Workshops." Others take the form of specialized committees, commissions, regulatory negotiations, or working groups. Regardless of their name, all are policy dialogues. (TACSO 2010: 12)

### 3. General terms and principles of CSO – Government cooperation

When speaking about CSO – Government cooperation we have to distinct between the cooperation with the intention to foster the development of CSOs as a sector or part of the sector (in further text the term cooperation is used to describe this kind of general cooperation) and citizens/public participation in the legislative processes.

#### 3.1 CSO – Government Cooperation

CSO – Government cooperation is consisted of different kinds of partnerships/relationships, e.g. government support of the sector with different kinds of grants and subsidies, partnership in delivering social services. Parallel to the financial relationship and partnerships in meeting social needs, governments and CSOs have recognized the importance of having continuous dialogue and longer term strategies for cooperation and support to the development of the sector. In order to facilitate the relationship between public authorities and CSOs a number of countries have developed coordinating bodies. These include: government bodies, such as a contact person for civil society in each ministry or a central coordination body as a single interlocutor; joint structures such as multi-stakeholder committees, work groups, expert councils and other advisory bodies (per+manent or ad-hoc); or CSO alliances/coalitions, which pool resources and develop joint positions.

The functions of the offices differ. In general they are responsible for: drafting and managing process of consultation concerning laws that affect the sector; contributing towards policy development on funding for the sector; distribution of government funding or providing support to bodies which distribute government funding; coordinating different ministries who are responsible for nurturing cooperation with the sector; training and education of civil servants concerning government policies towards the sector and their implementation; encouraging civic participation, open governance, and social dialogue; promoting the activities of the sector, philanthropy and promoting partnerships on regional and local level (ECNL 2009: 11).

Furthermore, public authorities have adopted different kind of documents, such as policy documents, programs for cooperation or targeted strategies which help strengthen the cooperation and support. These documents differ in terms of purposes and goals; however they all outline the basic principles of the cooperation and promote active measures that should be undertaken by the government to support the development of the sector and foster cooperation (ICNL 2008: 44).

Practice from several countries show that these documents can be bilateral agreements with parliament or government, or unilateral documents, such strategy documents for cooperation and official programmes for cooperation, adopted by the public authorities. Some of them are very detailed, others broad, but nevertheless all of them share the following sections:

- A **statement of representation** (bodies that represent the two sectors in adopting and implementing the document),
- A **statement of principles** (roles and functions of the two parties in developing democratic society, including recognition of their autonomy, their basic rights and obligations, the legal and logical constraints they may face in fulfilling these obligations, and their commitments to mutually respected values defined in the document),
- A general outline of the **areas of cooperation**, such as delivery of services, legislation and other decision-making processes, the environment, international development aid, access to information, national policy formulation in various areas, decentralization, and development of social enterprise; and specific **instruments of cooperation**, including public debates,

consultations, joint consultative and decision-making bodies, partnership agreements for the joint delivery of services, exchange of information, and right to legislative initiative.

- **Funding-related issues** can include obligations to develop codes of good funding practices (U.K. Compact), descriptions of funding mechanisms to support the voluntary sector (long-term or short-term), commitments to establish a tax system that directly and indirectly encourages third-sector activities (as in the Estonian Concept for Civil Society Development), and commitments to develop legislation supporting the self-sustainability of the third sector and the financing of organizations of disadvantaged persons (Croatian Program for Cooperation and Hungarian Government Strategy).
- **Implementation** elements include a timeline covering short-term and long-term objectives, allocation of responsibilities to public institutions involved in implementation, and potentially such elements as a proposed monitoring and evaluation tool, provisions for review and revision, and a mechanism for settling disputes (ICNL 2005: 68, 69).

### 3.2 Citizens participation

Citizens participation is a political principle and practice that seeks and facilitates the involvement of those potentially affected by or interested in a decision. The principle of public participation holds that those who are affected by a decision have a right to be involved in the decision-making process.

This influence by the public is not replacement for applying formal rules and principles of democracy – such as free and fair elections, representative assemblies, accountable executives, a politically neutral public administration, pluralism, respect for human rights. Public participation always existed in democracies in some form and to some extent. However, with democracy evolving further, citizens and organisations demanding greater openness and transparency, and societies and challenges becoming ever more complex, governments are now increasingly seeking to strengthen these interactions. Improving public participation can strengthen public trust in government, improve government transparency, enhance civic capacity and create more sustainable policies. (CRNVO 2012: 7).

Active and effective relationships between government and the public can...

- **Improve the quality of policies and services**

When government agencies include diverse groups in decision-making and service delivery, the agency benefits from their first-hand understanding of the issues. The agency gains new perspectives that test their assumptions and serve as a reality check.

- **Help solve complex problems**

Social, economic and environmental problems can be complex. By bringing different networks together, government agencies gain new sources of information, build a sense of joint purpose, and increase the possibility of finding sustainable solutions.

- **Build trust and understanding**

By building active relationships, government agencies can reduce the sense of 'us' and 'them'. People develop confidence in agencies that invite participation and genuinely listen. This can build a foundation of trust that is valuable when tough decisions need to be made.

- **Support active citizenship**

By actively engaging citizens, agencies are honouring people's right to participate in decisions that affect them. Agencies can encourage a participatory democracy in which everyone recognises that they have a stake and a part to play.

- **Help create an inclusive society**

People feel more powerful, more fairly treated and more valued when government acts in co-operation with diverse communities. Creating an environment where people can solve their own problems encourages self-reliance and innovation.



- **Measure progress more effectively**

Collaboration with CSOs can improve monitoring and evaluation of community-delivered programmes. Active relationships can also enable constructive feedback on the agency's performance.

- **Build staff skills**

Relationship-building with CSOs and citizens offers opportunities for government agencies to build a range of communication and cross-cultural skills that are applicable in many other settings. (Good Practice participate, <http://www.goodpracticeparticipate.govt.nz>)

*The Code of Good Practice for Civil Participation in the Decision-making process*<sup>1</sup>, one of several international documents addressing this issue, was adopted by the Conference of ICSOs of the Council of Europe and endorsed by the Council of Ministers as a reference document of CoE in October 2009. It aims at facilitating CSO participation in the political decision-making process at local, regional and national level.

There are several different level of participation. Although different sources (OECD, Worldbank, CoE) name the levels differently, the principles are the same. In this document we will reflect the CoE's Code of Good Practice as the most recent document.

Access to information is the basis for all subsequent steps in the involvement of CSOs in the political decision-making process. This is the lowest level of participation which usually consists of a one-way provision of information from the public authorities. CSOs are thus only addressees of information and there is no interaction between them and public authorities. However, as no further level of participation is possible without accurate and timely information, this first level is necessary condition for all other steps in the decision-making process.

Consultation is a form of initiative where the public authorities ask CSOs for their opinion on a specific policy topic or development. Consultation usually includes the authorities informing CSOs of current policy developments and asking for comments, views and feed-back. The initiative and themes originate with the public authorities, not with the CSOs.

The initiative for dialogue can be taken by either party and can be either **broad** or **collaborative**.

A broad dialogue is a two-way communication built on mutual interests and potentially shared objectives to ensure a regular exchange of views. It ranges from open public hearings to specialised meetings between CSOs and public authorities. The discussion remains wide ranging and is not explicitly linked to a current policy development process.

A collaborative dialogue is built on mutual interests for a specific policy development. The collaborative dialogue usually leads to a joint recommendation, strategy or legislation. Collaborative dialogue is more empowered than the broad dialogue as it consists of joint, often frequent and regular, meetings to develop core policy strategies and often leads to agreed outcomes.

A partnership implies shared responsibilities in each step of the political decision-making process from agenda setting, drafting, decision and implementation of policy initiatives. It is the highest form of participation.

At this level CSOs and the public authorities come together for a close cooperation while ensuring that the CSOs continue to be independent and have the right to campaign and act irrespective of a partnership situation. Partnership can include activities such as delegation of a specific task to an CSO, for example delivery of services, as well as participatory forums and the establishment of co-decision-making bodies, including for resource allocation.

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<sup>1</sup> [http://www.coe.int/t/ngo/Source/Code\\_English\\_final.pdf](http://www.coe.int/t/ngo/Source/Code_English_final.pdf), accessed in December 2012.

## 4. Country overview

### 4.1. United Kingdom (England)

#### 4.1.1 CSO – Government cooperation

##### *4.1.1.1 Legal or policy documents on mutual cooperation*

The United Kingdom is recognised as a pioneer in the field of CSO – Government cooperation, since in all four constituent parts of the UK – England, Wales, Scotland and Northern Ireland – the agreements on co-operation (compacts) were signed already in the late 1990s. The English compact (*Compact on relations between the Government and the voluntary and community sector in England*<sup>2</sup>) was launched in November 1998 and it served as a role model for all the other agreements that were later launched in the UK and Central and Eastern Europe. In 2010 the compact was renewed on the basis of ten years of experience with its implementation. Neither first nor the second compact is legally binding documents. Steps that can be taken by CSOs if the compact is not respected include dispute resolution, internal complaints procedures and ombudsman functions.

##### Short chronology of the national Compact

The first national Compact was developed following recommendations in the Deakin Commission Report on the future of the voluntary sector (July 1996), which concluded that government should recognise the legitimacy of the voluntary and community sector's diverse roles, as well as its responsibility to promote a healthy sector.

The first national Compact was produced by the Home Office and a steering group, following a postal consultation with 20,000 community groups.

Following the publication of the national Compact, a set of accompanying codes (on funding and procurement, volunteering, consultation and policy appraisal, community groups, and black and minority ethnic voluntary and community organisations) were published, which aimed to clarify how the Compact could be applied.

Annual review meetings have been taking place since 2000, and a number of evaluations have been commissioned to evaluate compact implementation, resulting in concrete measures, such as the founding of the Commission for the Compact in 2007, and the redrafting of the document in 2009.

In July 2008, in response to a request by the Minister for the Third Sector, the Commissioner for the Compact initiated a debate on the future of the document and the role of the Commission for the Compact. Discussions in various settings led to a redrafting of the compact documents for a 12-week public consultation which took place in the second half of 2009, and the final text was published in December 2009. (Nahtigal 2010: 30)

As a result, the national Compact was refreshed in 2009 – it was updated and the set of codes was adapted to a list of principles covering three areas of commitment: Involvement in policy development, Allocating resources, Advancing equality.

The national Compact was renewed in 2010 following the establishment of the coalition government. The key motivations for the renewal were the changed priorities of the new coalition government and the need to strengthen the Compact. It was published along with an Accountability and Transparency

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<sup>2</sup> [http://www.compactvoice.org.uk/sites/default/files/the\\_compact.pdf](http://www.compactvoice.org.uk/sites/default/files/the_compact.pdf), accessed in December 2012.

Guide, which outlines steps to take at national and local level, including dispute resolution, internal complaints procedures and ombudsman functions. (<http://www.compactvoice.org.uk>)

The renewed Compact was drafted in a consultative manner. Draft was consulted for 30 days through almost 50 regional events, engaging approximately 1500 individuals.

The new compact replaced not only the 1998 one but also the accompanying five codes of practice. It is accompanied by *An introduction to the Compact*<sup>3</sup>, a publication with general information about the compact and explanations on who it applies to, how it should be implemented and how differences should be resolved.

The compact begins with shared principles between the public sector and the third sector, which “make it clear that the Compact is neither a set of rules nor a bureaucratic burden, but a way of working that can help deliver real outcomes and improvements for people and communities”. Those principles are specified under the headings *Respect, Honesty, Independence, Diversity, Equality, Citizen empowerment* and *Volunteering*. The shared principles are embedded in commitments in the three key areas covered by the compact: involvement in policy development, allocating resources and advancing equality. The compact defines commitments for both 'parties', the government and the third sector.

Regarding involvement in policy development, the compact recognises the expertise of third sector organisations in many areas, the understanding they have of the needs of their beneficiaries and their ability to provide new and effective answers to problems. Involving the third sector in policy development is described as “a continuous process right from the earliest stages of policy development.” The compact states that it is consistent with the government’s *Code of practice on consultation*<sup>4</sup> and the Cabinet Office’s handbook *Better together: improving consultation with the third sector*<sup>5</sup>, and should be used together with these documents. Commitments of the Government are divided to: when to involve, who to involve, and how to involve, while the third sector’s commitments are elaborated in the scope of effective involvement.

Regarding allocation of resources the compact recognises that “third sector organisations, including those that receive no public funding, are often in a good position to understand what people want and how their needs can be met. By working together and co-designing programmes, government and the third sector can deliver policies and programmes that are built around communities and individuals, meeting their needs and reflecting their choices.” Commitments of the Government are divided to: planning, choosing finance and funding options, application and bidding processes, understanding costs, making decisions, agreeing delivery terms, making payments, monitoring and reporting and conclusion of financial relationship. The third sector’s commitments are elaborated in the scope of contributing to planning, making applications and bids, agreeing delivery terms, monitoring and reporting, when a financial relationship ends.

Regarding advancement of equality the compact states that “Equality for everyone, regardless of their background, is a core value of our society, shared by the public and third sectors.” The Compact “recognises the vital role that the third sector plays in helping to create a more equal society and sets out commitments that will help both sectors work together to achieve their equality goals. A good working relationship between the third sector and the public sector will help to meet the needs of the people they serve or represent and reduce inequality. The Compact plays a key role in helping this relationship to work, not just through the commitments within this section, but by ensuring that

<sup>3</sup>

<http://webarchive.nationalarchives.gov.uk/+/http://www.cabinetoffice.gov.uk/media/319728/an%20introduction%20to%20the%20compact.pdf>, accessed in December 2012.

<sup>4</sup> <http://www.bis.gov.uk/files/file47158.pdf>, accessed in December 2012.

<sup>5</sup> <http://webarchive.nationalarchives.gov.uk/+/http://www.cabinetoffice.gov.uk/media/99612/better%20together.pdf>, accessed in December 2012.

organisations which promote equality are allocated sufficient resources and benefit from effective and relevant policy development, as set out in the other sections of the Compact.” Commitments of the Government and the third sector are divided to: promoting equality and diversity, and representation and infrastructure.

From 2007 till 2011 an independent body, *Commission for Compact*, was responsible to oversee the implementation of the compact. Now the responsibility is shared between *The Office for Civil Society* (OCS), which is responsible for implementing the Compact across every government department and *Compact Voice*, which ensures that the views and needs of the voluntary and community sector are represented and understood. Additionally, the National Council for Voluntary Organisations runs a *Compact Advocacy programme*, which supports voluntary organisations when they are having problems with government at a national and local level and also uses its casework to campaign for long-term change.

A number of other complementary measures have been introduced alongside the compact, e.g. the already mentioned institutional framework, joint action plans, the comprehensive official compact website, the annual *Compact Awards*, the pilot project *Compact Implementation Consultancy Service*, a new local government performance framework that includes an indicator measuring the environment for the third sector, practical guides, etc. (Nahtigal 2010: 34)

#### *4.1.1.2 Institutionalisation of cooperation*

**The Cabinet Office for Civil Society** transformed from the Office for the Third Sector in 2010. The Office of the Third Sector was established in May 2006 under the Cabinet Office (The Cabinet Office is a department of the Government of the United Kingdom responsible for supporting the Prime Minister and the Cabinet of the United Kingdom, which is a governing body composed of the Prime Minister and cabinet members). The office is led by the minister of civil society.

Although the office was renamed, its functions remain the same. The office provides support to voluntary and community organisations with the aim to:

- make it easier to run a charity, social enterprise or voluntary organisation;
- get more resources into the sector and strengthen its independence and resilience; and
- make it easier for sector organisations to work with the state.

The specific functions include: charity law and regulation, volunteering and charitable giving, the delivery of public services by the sector, the Government's relationship with the sector, and sector's capacity Building (ECNL 2009: 12). The office also works across government departments to translate the Big Society<sup>6</sup> agenda into practical policies, provides support to voluntary and community organisations and is responsible for delivering a number of key Big Society programmes. The office consists of five teams: Big Society Policy and Analysis, Public Services, Charities and Sector Support, Social Investment and Social Enterprise and Social Action.

#### **4.1.2 Citizens participation in the legislative processes**

The new compact as said above includes a section on involvement in policy development. Since it is a state-of-the-art document and reflects a decade of experience, the section with commitments regarding policy development is reproduced here in its entirety:

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<sup>6</sup> The Big Society is a program of the coalition parties and it is part of their legislative programme. The stated aim is to create a climate that empowers local people and communities, building a "big society" that will take power away from politicians and give it to people.

## COMMITMENTS FOR GOVERNMENT

### 1 When to involve?

Involving the third sector in policy development at the earliest stage possible will allow government to get the most out of the process. This will lead to more effective policies and programmes being developed.

Government undertakes to:

1.1 Involve the third sector from the earliest stages of policy development, on all relevant issues likely to affect it. This can include empowering third sector organisations to start discussions within affected communities themselves.

1.2 Inform the sector of progress in developing policy.

1.3 Identify implications for the third sector when assessing the impact of new policies, legislation and guidance.

### 2 Who to involve?

Spending time and resources helping third sector organisations make their voices heard helps ensure that their knowledge can contribute to policy development.

Government undertakes to:

2.1 Identify and remove barriers, such as language barriers, which may prevent third sector organisations from contributing to policy development.

2.2 Encourage and facilitate responses from the full range of third sector organisations that are likely to have a view.

2.3 Support the development of third sector infrastructure. Infrastructure bodies enable third sector organisations to help people and communities more effectively, through services such as capacity building, representation and other forms of support.

2.4 Identify where there are costs to third sector organisations as a result of partnership work with government and offer support on a clear and consistent basis. This can be especially important for infrastructure bodies that are helping to organise or run consultations.

### 3 How to involve?

Third sector organisations can provide stronger and better-informed responses if the consultation methods used are suited to the purpose and audience, and if enough time is given for people to respond. Either formal or informal consultation methods may be appropriate depending on the circumstances and on the type and sizes of the organisation.

Government undertakes to:

3.1 Avoid compromising or undermining the independence of third sector organisations (whatever financial or other relationship may exist between them).

3.2 Give notice of forthcoming consultations so that organisations can plan ahead.

3.3 Publicise consultation exercises widely and make sure they are accessible to the people they are intended to reach.

3.4 Use a variety of different consultation methods and explain the reasons for selecting them.

3.5 Explain which matters are open to change as a result of the consultation and which are not. Provide feedback to explain how respondents have influenced policy decisions, including where respondents' views have not been acted upon.

3.6 Allow enough time for third sector organisations to involve their service users, beneficiaries, members, volunteers and trustees in preparing responses.

3.7 Conduct 12-week formal written consultations, with an explanation given for shorter time-frames.

3.8 Make third sector organisations aware of the consulting organisation's obligations under the Freedom of Information Act 2000. Where appropriate, protect the confidentiality of information that has been supplied by a third sector organisation for the consultation.

## COMMITMENTS FOR THE THIRD SECTOR

### 4 Effective involvement

When the third sector engages actively in policy development, it helps build government's trust in the sector, establishing valuable links between the two sectors and encouraging the Government to commit actively to listening to third sector views.

Third sector organisations undertake to:

4.1 Involve service users, beneficiaries, members, volunteers and trustees when preparing responses to consultations.

4.2 Give feedback on what information is presented to government and what the outcome is to everyone involved in responding to the consultation.

4.3 Be clear about whose views are being represented and what those views are. This includes explaining whether views have been gathered directly (and from what audience), or whether the response is based on the organisation's knowledge and experience of the issues.

4.4 Make sure all research and information that is presented to government is accurate and credible. Explain where the information comes from and if there is conflicting evidence.

4.5 Be aware of the consulting organisation's obligations under the Freedom of Information Act 2000. Where appropriate, respect the confidentiality of information that has been supplied by government for the consultation.

4.6 Promote government consultations across the third sector, where appropriate.

4.7 Accept that, in rare cases, consultations may need to take place in shorter time-frames than 12 weeks.

The new compact especially states that it is with the government's *Code of practice on consultation* and the Cabinet Office's handbook *Better together: improving consultation with the third sector*, and should be used together with these documents.

The government's code was adopted in November 2000 as the *Code of good practice on written consultations*. In 2004 it was replaced with the *Code on the practices of consultations*. Its third version was published in 2008. The code applies to all governmental agencies and elaborates on the seven consultation criteria laid down at the beginning of the document (see HM Government 2008):

#### Criterion 1 - **When to consult**

Formal consultation should take place at a stage when there is scope to influence the policy outcome.

#### Criterion 2 - **Duration of consultation exercises**

Consultations should normally last for at least 12 weeks with consideration given to longer timescales where feasible and sensible.

#### Criterion 3 - **Clarity of scope and impact**

Consultation documents should be clear about the consultation process, what is being proposed, the scope to influence and the expected costs and benefits of the proposals.

#### Criterion 4 - **Accessibility of consultation exercises**

Consultation exercises should be designed to be accessible to, and clearly targeted at, those people the exercise is intended to reach.

**Criterion 5 - The burden of consultation**

Keeping the burden of consultation to a minimum is essential if consultations are to be effective and if consultees' buy-in to the process is to be obtained.

**Criterion 6 - Responsiveness of consultation exercises**

Consultation responses should be analysed carefully and clear feedback should be provided to participants following the consultation.

**Criterion 7 - Capacity to consult**

Officials running consultations should seek guidance in how to run an effective consultation exercise and share what they have learned from the experience.

## **4.2 Germany<sup>7</sup>**

### **4.2.1 CSO – Government cooperation**

#### *4.2.1.1 Legal and policy documents on mutual cooperation*

Civil Dialogue in Germany traditionally is organized within single policy areas, does not have a cross-cutting dimension and is dominated by corporatist structures of large associations representing their areas of activities. An overarching framework agreement has not yet been established. (ENNA 2012: 15).

However, in spring 2009 the Federal Ministry for Family, Senior Citizens, Women and Youth has taken the initiative to start a process within the German Cabinet to develop a National Strategy for Civic Engagement and Participation. National Network for Civil Society (BBE) was asked to set up and coordinate a civil society forum to monitor and counsel this process as an innovative governance instrument. This “National Forum for Engagement and Participation” gathered around 350 Third Sector-experts, political advisors, administrators and CSR -specialists from various businesses. (ibid.)

In May 2010 the National Forum produced concrete proposals for legal actions, framework agreements and policy contents. On the basis of these proposals the German government has elaborated a cabinet decision that was published in October 2010. The National Strategy of 2010 is not a structured agreement but a first step towards the establishment of a framework for civil dialogue and participation. (ibid.)

#### **4.2.2. Citizens participation in legislative processes**

There are no formal mechanisms for citizens participation in legislative processes. The dialogue is informal and differs from one area to another.

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<sup>7</sup> Data on CSO – Government cooperation in Germany is rather scarce. Cooperation mechanisms and public participation mechanism in the decision-making process are informal and differ from ministry to ministry. Germany was added in the report upon a special request from TUSEV.

## 4.3 France

### 4.3.1 CSO – Government cooperation

#### 4.3.1.1 *Legal and policy documents on mutual cooperation*

A Charter for Civil Society Relations (Charte d'Engagements Réciproques entre l'Etat et les Associations Regroupés au sein de la CPCA) was signed between the Prime Minister and CSOs, represented by the Standing Conference of Associations on 1 July 2001, 100 years after the enactment of the 1901 Law of Associations in France. The idea of the French Charter was elaborated by Fonda, a French umbrella organization and think tank. It organized several events starting in the mid-90's which led the way to the charter; it conducted research on comparative experiences of developing compacts and the existing examples of documents which support cooperation in France. The draft of the Charter developed by Fonda, was then further developed by the Standing Conference of Associative Coordinations (CPCA), a national umbrella body (Hadzi-Miceva 2009: 4).

This Charter established a partnership framework between the associational sector and the public authorities, with reciprocal commitments. It is focused around the following shared principles:

1. trust and partnership for democratic renewal;
2. relationships based on respect for contract duration, transparency and assessment;
3. voluntary work and democracy as foundations of the associational sector;
4. civil society contribution to the economic, social and cultural life of France with the aim of establishing a new, more humane, vision of wealth.

The Charter continues with a clear definition of the State's commitments on one hand and the associational sector commitments on the other hand. The State agrees to promote and facilitate the development of civil society, including clear undertakings on a) funding relationships; b) volunteering policy as well as; c) guaranteeing a voice in legislative consultation and participation. Civil society associations for their part, commit to a) promotion of their members' needs; b) assertion of an ethical approach to financing and transparency in their activity; c) recognition of the value of human resources of civil society; d) evaluation methods that demonstrate full value of social projects; e) constructive engagement in public consultation; f) involvement in support for constructive financial relations; g) structures of civil society for dialogue with government (ENNA 2012: 7).

The Charter does not contain an implementation plan, but only states that evaluation should be conducted every three years by the CNVA and its result are presented to the Parliament and to the Economic and Social Council. It seems that there are no specific implementation acts undertaken to enforce the Charter, mainly because of the lack of political support and interest to follow up on it. However, in 2006, the French Government initiated the National Conference on Associative Life which can be deemed an offshoot of the Charter of 2001; it is considered a tool to maintain a vector of open public dialog between NGOs and the Government on important public policy issues. The first National Conference reflected on three issues of public policy regarding the nonprofit sector: (1) Consolidating the place of associations in civil dialogue, (2) Consolidating the contractual relationship between associations and state, and (3) Supporting the volunteer activity. Three work groups were assembled, composed of various representatives of NGOs and worked for five months to deliver recommendations to the (then) Ministry of Youth and Sport for each theme of the Conference. Following the Conference, 25 objectives were identified which aimed to direct the focus of the Governmental action and/or regulation regarding the development of the associative sector. The review of the implementation of the measures of the 25 goals is published on the Government website as of the end of 2007. As a result, several regulations were adopted and other measures undertaken (e.g., improvements in statistic monitoring of the NGO sector, creation of the ability to apply for government funding online, creation of an online national directory of NGOs, publication of a guide on government funding).



Nevertheless, the lack of consultation and cooperation in implementation of the 25 objectives hampered their complete fulfilment (Hadzi-Miceva 2009: 33).

#### *4.3.1.2 Institutionalisation of cooperation*

In 2009, the Government created the **High Commissary on Active Solidarities Against Poverty**. The High Commissary was established with a Decree (No. 2009-57 of 16 January), which stipulates that the High Commissary acts by delegation of the Prime Minister as a government body created to be in charge of the Government policy towards youth and the associative sector. The High Commissary also shares some responsibilities with the Ministry of Health and Sports. By delegation of the Prime Minister, the High Commissary on Youth prepares and implements the Government policy regarding Youth and the development of the associative sector. The High Commissary oversees both solidarity and youth policies, including public policy regarding youth, popular education, and associative life (ECNL 2009: 12).

#### **4.3.2. Citizens participation in legislative processes**

According to OECD's report on better regulation<sup>8</sup>, consultation in France still "lacks a baseline methodology to support a clearer strategy and raise its profile" (OECD 2010: 72). There is no guidance on consultation, therefore each ministry develops its own methods of consultations.

The consultation is often led through a high number of advisory boards (till the cut-downs in 2006, there were app. 500 different advisory boards) prescribed by legislation. This kind of consultation is often not efficient and transparent. In spite of the reduced number of advisory boards, there is still no clear rules on the engagement of citizens in legislative processes. However, the report points out that there is a growth of internet consultations seen in the last years. (OECD 2010: 73)

### **4.4 Ireland**

#### **4.4.1 CSO – Government cooperation**

##### *4.4.1.1 Legal and policy documents on mutual cooperation*

A path towards the white paper *Supporting Voluntary Activity*<sup>9</sup>, which was passed in 2000, was very lengthy and troublesome. We are describing it quite in detail, since it is a very good learning point and it shows how changes in the Government can affect CSO – Government cooperation.

The first show of the state's commitment towards a policy for the voluntary and community sector appeared in late 1970s. The *Programme for Government* of the short-lived Fine Gael/Labour government of 1981 gave a commitment to drawing up a charter for voluntary services that would provide a framework for relationships between government and voluntary agencies. The government changed twice more in the next 18 months and no more was heard of the proposal. The 1976 and 1981 commitments were renewed in 1990 when the Minister for Social Welfare announced that there would be a white paper and charter for voluntary social services and voluntary activity in Ireland. He launched an extensive process of consultation. Other government departments were questioned about their involvement with the voluntary sector. Advertisements were placed in the national press, inviting

<sup>8</sup> Better regulation in Europe, France 2010, <http://www.oecd.org/regreform/regulatorypolicy/45706677.pdf>, accessed in December 2012.

<sup>9</sup> [http://www.welfare.ie/EN/Publications/naps/socincl/Documents/supporting\\_minister.pdf](http://www.welfare.ie/EN/Publications/naps/socincl/Documents/supporting_minister.pdf), accessed in December 2012.

organizations and individuals to file questionnaires relating to the key themes of the charter. 300 questionnaires were sent out and 72 returned. The department met 95 voluntary organizations and experts and received policy submissions from seven. Voluntary sector structures in England and Northern Ireland were studied. The Department of Social Welfare set up a task force to get agreement on the white paper from government departments, health boards, local authorities and vocational education committees. In 1992, the government appointed an 18-strong expert committee to assist in the process. The consultative process received a positive response from voluntary organizations: they raised a mixture of individual, sectoral and broad concerns. Several saw this as an important opportunity to clarify and redefine the relationship between the state and the voluntary sector. A short paper is available summarizing the key issues raised by voluntary organizations. These were questions of definition and terminology; funding, the overwhelming issue; the provision of supports such as training and premises; staffing, principally community employment; taxation; and involvement in policy making, including social partnership.

The white paper process was given a deadline of June 1993. Nothing came out of it. When the government changed in 1995, the new minister attempted to salvage what he could from the process by producing the stalled white paper as a green paper instead. This was eventually published in 1997 as *Supporting Voluntary Activity*, shortly before that government went out of office. A certain level of disillusionment had set in within the voluntary sector, reflecting the seven-year gestation period of this document. Overall, the green paper was welcomed for the political framework it provided, its acceptance of the role of the sector, the proposals for the respective roles of the sector and the state, and its promise to redress inequities in consultation and funding. There were, however, a number of criticisms of the green paper. The sections of funding were inadequate, understating the sector's own fund-raising, over-stating the level of Government contribution and defining the funding problem as weaning the sector from dependence on the state. The proposal for a community foundation, while welcome, lacked detail. The green paper dodged the issue of legal status for voluntary organizations and the baleful influence of the national lottery. The green paper focused on the role of smaller, community-based organizations combating poverty to the detriment of the role of larger social and health service providers and intermediary bodies. In 1997, when the government changed again, the new minister appointed by the long-running Fianna Fail/Progressive Democrat coalition of 1997-2002, Dermot Ahern, resurrected the concept of a white paper. A fresh round of consultation was organized (Acheson 2005: 106 - 108).

The outlined features of the 2000 white paper are:

- It affirmed the value of the community and voluntary sector as an essential contributor to democratic, pluralist society which provides opportunities for the development of decentralized and participative structures. Voluntary activity was one important expression of active citizenship.
- Voluntary organizations were valued for the contribution which they made toward social inclusion, solidarity, diversity, trust, dialogue and the rights of the individual.
- Specifically, it underlined the contribution which voluntary organizations could make to reconciliation between north and south.
- The government expressed its desire to work with voluntary organizations on a consultative, participative, facilitative basis. This could focus on policy questions as much as services.
- There was an acceptance of the independence of the sector.
- The white paper recognized the role of voluntary organizations in campaigning, lobbying and trying to influence public opinion (Acheson 2005: 151).

The main decisions set out in the white paper were as follows:

- The government was committed to consulting with the voluntary and community sector both through the range of channels which existed at present and through *ad hoc* channels which could be developed from time to time.

- Voluntary activity support units to be established in all government departments with significant dealings with the voluntary sector.
- Each department to make a clear statement of its funding packages for the voluntary sector, with clear procedures regarding funding, criteria, time scales, payments and lists of supported organizations.
- Allocation of €507,895 to research to quantify voluntary sector activity and understand its contribution to social development, the economy and employment.
- Additional funding of voluntary sector networks, training and support (€8.38m), with measures to support volunteering in connection with the *International Year of the Volunteer* (2001).
- Transfer of responsibility for legislation and regulation governing charitable voluntary organizations and fund-raising from the Department of Justice, Equality and Law Reform to the Department of Social, Community and Family Affairs.
- Statutory funding of voluntary organizations should move from a pattern of annual or *ad hoc* funding to multi-annual grants (three or five years at a time).
- Confirmation of the reforms to the National Lottery announced in 1997 (ibid.).

Following the white paper, the government moved in July 2001 to establish an *implementation and advisory committee*. The voluntary sector was invited to nominate six representatives. Twenty voluntary organizations came together to organize such a process, inviting nominations and setting out a list of desiderata among those candidates to be put forward. This was the first time that the sector had organized such a national collective process in this way. After a lengthy and complex process of consultation, six representatives and six alternates were eventually selected for a term to run until July 2004. The role of the implementation group was to:

- Advise on a programme of research, including quantifying the full extent of voluntary and community activity in Ireland;
- Agree standard protocols for financial accountability for state funding of the sector;
- Monitor administrative mechanisms to underpin the effective functioning of the working relationship and discuss and agree proposals to promote integrated approaches at national level;
- Monitor developments in accreditation of training for the sector;
- Formulate practical proposals to enhance support and training capacity within the sector;
- Advise on its regulatory framework;
- Examine areas of overlap or gaps in statutory responsibility in support of the sector and make recommendations to overcome the situation;
- Advise on the distribution of the €2.54m proposed funding for federations and networks;
- Advise on the allocation of the national lottery surplus;
- Oversee the publication of a comprehensive manual of funding and regular updated versions;
- Review its own operation after three years (ibid.).

In spite of the implementation committee, troubles with the implementation occurred. A key area of the white paper – and, arguably a test of government commitment – was the decision to establish voluntary activity units in government departments that had a significant relationship with the voluntary sector. By late 2002, apart from the parent department, only one government department had established a new voluntary activity unit (the Department of Health and Children) although several other departments had designated officials responsible in other sections. One department (Environment and Local Government) already had such a unit in support of voluntary housing, predating the white paper (Acheson 2005: 154).

The key developments that have taken place in the implementation of the white paper process, are as follows:

- Funding promised in 2000 was not been released for over three years.
- Research funding was deferred and is unlikely to be made.

- Voluntary and community sector budgets were cut 17 per cent in 2003.
- Local development projects must obtain the approval of city and county development boards for their work plans.
- Annual funding was restored in the place of three-year funding.
- The role of the sector in local development is now under further examination, with a view to its rationalization (the optimal coherence review).
- Voluntary and community organizations engaged in anti-poverty, community or local development work find that governmental approaches to consultation have not changed.
- *Reflecting the Relationship* suggests that the voluntary – statutory relationship still retains many of the characteristics of the period before 2000 (Acheson 2005: 157).

Community and voluntary organisations were recognized in the social partnership agreements as well. For example, social partnership agreement covering the period 2007 – 2015, *Towards 2016*<sup>10</sup>, states that “the Government will also engage with the Community and Voluntary Pillar on how to progress development of future frameworks to support the deepening of the partnership between statutory bodies and voluntary and community organisations”. “In the context of implementing this agreement based on a ten-year strategy and focused on delivering the outcomes envisaged in the life-cycle framework in the areas of income, service provision and innovation/participation/activation, the Government acknowledges that the C&V Sector has a central role to play in delivering the outcomes envisaged” (see Chapter 34 of the *Towards 2016*).

#### 4.4.1.2 Institutionalisation of cooperation

Until June 2011 the Department of Community, Equality and Gaeltacht Affairs was responsible for the implementation of the white paper, community development, volunteering, dialogue with community and voluntary organizations. In June 2011 the department was re-organized to the Department of arts, heritage and gaeltacht. Since then there is no institutional body that would be responsible for the dialogue with the third sector as such.

Before the change in 2011 the Government led a broad social partnership process, by which the Government, employers, voluntary and community organisations and trade unions worked out a plan that covers wages, industrial action, housing, transport, education and other issues that affect the country’s social and economic development (<http://communityplatform.ie/social-partnership.html>).

Community and Voluntary Pillar was an integral part of the social partnership from 1996 (initial partners were the Government, Business, Trade Unions and farmers). In May 2009 another separate pillar, the Environment, was established. Community and Voluntary Pillar consists of 17 representative organisations.

After the Government change social partnership no longer exists, the Government meets all the pillars separately.

Members of community and voluntary pillar and officials from the main departments of the Government (Health, Education, Housing, Environment, Community, etc.) maintain regular dialogue. They usually meet three or four times per year to discuss policy issues of relevance for each department. The dialogue is underpinned by a set of principles from the white paper:

- Both Sectors value openness, accountability and transparency in the relationships between the State and the Community and Voluntary sector.

<sup>10</sup> [http://www.taoiseach.gov.ie/attached\\_files/Pdf%20files/Towards2016PartnershipAgreement.pdf](http://www.taoiseach.gov.ie/attached_files/Pdf%20files/Towards2016PartnershipAgreement.pdf), accessed in December 2012.

- There is a shared commitment by both the State and the Sector to ensure the involvement of consumers and people who avail of services in the planning, delivery, management and evaluation of policy and programmes. This applies at all levels: national, regional and local.
- There is a joint commitment relating to fostering co-operation and the coordination within and across each Sector as well as between the State and the Community and Voluntary Sector.
- There is a commitment on the part of both the State and the sector to provide access to, and to share, information relevant to the pursuit of shared objectives.
- The State and the sector commit themselves to carrying out periodic and mutually agreed monitoring and evaluation of their individual actions, as well as joint evaluation of the experience of operating this framework.
- The State and the sector each recognise their respective rights and shared objective in relation to developing and implementing effective policy, including the right to constructively critique each other's actions and policies, in a context of mutual respect.
- There is a commitment to developing mutual understanding of the culture and operating principles of each Sector and to take practical steps to achieve this.
- Both Sectors commit themselves to using working methods that are flexible and efficient in the context of the growing demands and range of tasks posed by modern society (email of Cooper, I., The Wheel, October 2012).

#### **4.4.2. Citizens participation in legislative processes**

Review of Republic of Ireland's ministries' web sites showed that they actively publish draft documents (laws, policy documents) for public consultations. However, we were unable to find any regulation, document or Government manual/instructions that would set minimum standards of consultations across all ministries/departments.

### **4.5 Estonia**

#### **4.5.1 CSO – Government cooperation**

##### *4.5.1.1 Legal and policy documents on mutual cooperation*

The approach to CSO – government cooperation in Estonia is frequently singled out, especially for the fact that it is secured “with legitimacy on a broad basis” (Bulgarian Center for Not-for-Profit Law 2009: 23). Not only was there public discussion prior to the adoption of the document – it was voted upon by the parliament.

The *Estonian Civil Society Development Concept* (EKAK in Estonian as an abbreviation from *Eesti Kodanikuühiskonna Arengukontseptsioon*) was originally envisioned by leading Estonian NGOs and legal experts in the spring of 1999 (Liiv 2001). Similar to other countries, it is possible to identify some stakeholders which were crucial in the process. In the Estonian case, the role of the Network of Estonian Non-profit Organisations (NENO) and the Open Society Foundation has been emphasized, as „They were active participants in the development of the EKAK since the earliest negotiations and they have served as co-chairs of two of the working groups for the EKAK Implementation Plan.“ (Casey et al. 2008: 24) Support within political circles was of major importance, and the first step toward the concept was a memorandum of cooperation between third sector and political parties, signed by all parties represented in the parliament and main third sector umbrella organisations (Liiv 2001). Finally, EKAK was adopted unanimously by all political parties represented in the Estonian Parliament.

EKAK, as is stated in the introduction to the document, „describes the different roles of the public sector and the nonprofit sector which supplement each other, and the co-operation principles in developing and implementing public policies and building up the civic society“. The concept is „based on the understanding that in the name of a lasting and developing democratic regime, the public sector needs to hear its citizens and co-operate with possibly many of them“.

Specific aims are followed by the definition of principles and values of co-operation between nonprofit associations and the public sector (under the headings *Citizen action, Participation, Respect, Partnership, Responsibility and accountability, Political independence of civic initiative, Preventing corruption, Sustainable and balanced development, Equal treatment*). The rest of the document is dedicated to „main obligations and rights in the co-operation of the public sector and non-profit sector which are related to the acknowledgement and representation of both sides, their partnership, development of policies, use of resources and reporting“.

The document emphasizes the need for enhancing financing mechanisms for nonprofit organizations (including the introduction of a tax system that supports civic initiative and charity) and ensuring their transparency. Furthermore, civil society and public sector pledged to work to elaborate and make public the principles and order for transferring services to the non-profit organizations and for financing the implementation of co-operation agreements between the public sector offices and citizens' associations.

EKAK concludes with a commitment that the Estonian parliament would organise deliberations of the implementation of the document and the development of the civil society as a matter of significant national importance.

In line with EKAK, the *Joint Committee for EKAK implementation* (with representatives of each ministry and NGOs from different fields) was established in 2003. One of its tasks was to evaluate the fulfilment of commitments by the parties to EKAK. At the end of 2006, NENO conducted an audit for the Joint Committee that identified three main problems in implementing EKAK: (1) lack of political interest; (2) poor quality and implementation of activity plan caused by insufficient financial and human resources, and (3) unclear role and responsibilities of both the Committee and its members, especially those from the public sector (officials who usually didn't have the power to make decisions on behalf of their ministry). In the following years, the Committee was reformed to comprise higher level state officials and become more operational in other ways (see Kübar 2008: 4).

To support the implementation, the government adopted the *Action plan for implementing Estonian civil society development concept for 2004-2006*, prioritizing the issue of financing, as well as the *Civic initiative support strategy* (KATA) in 2007, aimed at standardizing the government's approach to creating an enabling environment for the civil society (Casey et al. 2008: 25) and replacing the implementation plan for the Concept after 2007 (Bulgarian Center for Not-for-Profit Law 2009: 23). The strategic document set five goals for the following three years: (1) to raise the administrative ability of the public sector in communicating with citizens and NGOs/NPOs; (2) to bring into order the system of financing the NGOs/NPOs; (3) to engage NGOs/NPOs consistently and successfully in the decision-making processes; (4) to raise awareness and develop cooperation between the public, private and the nonprofit sectors and (5) to develop and support civic activism (Hadzi-Miceva 2007: 32). As said above, KATA was an action plan for the implementation of EKAK for 2007 – 2011 and in 2010 another action plan for 2011 – 2014 was passed. “The process of drawing up the *Civil Society Development Plan for 2011-2014*<sup>11</sup> took almost an entire year. The plan outlines state-level activities to support civil society along with deadlines, accountability, and cost estimates. Similar draft plans have been criticized in the past for simply listing projects already underway and not creating the basis for further development. However, this time around, the development plan was created in participation and

<sup>11</sup> [https://www.siseministeerium.ee/public/KODAR\\_VV\\_EN.pdf](https://www.siseministeerium.ee/public/KODAR_VV_EN.pdf), accessed in December 2012.

discussion with different stakeholders. The development plan, approved by the government towards the end of the year, consists of five chapters: civic education, organizational capacity of NGOs, public involvement, public service provision, and philanthropy and volunteering. NGOs see the chapter on civic education as particularly important as a way to increase the public's awareness and interest in active citizenship. The plan foresees better coordination of different activities in civic education such as programs for encouraging more democracy in schools (so that students could freely express their views), adult education, etc." (USAID 2011, 79).

There are several other guidelines and processes following the adoption of EKAK (based on Kübar 2008: 5-6):

- several codes of good practices of cooperation between public and nonprofit sector, namely the *Code of good practice on involvement*, *Code of good practice on public service delivery* and *Code of good practice on funding*;<sup>12</sup>
- launch of government's participation portal [www.osale.ee](http://www.osale.ee), that allows civil society groups and individuals to post comments about the ongoing consultation processes, while the ministries can provide the public with draft laws, background materials as well as post polls;
- appointment of officials in every ministry directly responsible for involving the public in decision-making processes;
- launch of Civil Society Fund, financed from state budget, that supports the development of nonprofit organisations and innovative programmes for civil society development;
- development plans for voluntary work and civic education;
- amendments to the *Law of nonprofit associations* that make the annual reports of NGOs accessible in the public registry from 2010, thus making the sector more transparent and accountable;
- amendments to the *Law of income tax* which, among other things, also specifies the public benefit (charity) status of nonprofits for tax incentives;
- research on civil society issues and training programs for both public and nonprofit sector.

In spite of the outlined follow-up measures, it has been reported (USAID 2010: 102) that the NGO community in Estonia has been growingly dissatisfied with the implementation of EKAK which is deemed to be too slow. According to the *NGO Sustainability Index* (ibid.), "At the end of 2009, consultations on a new activity plan for 2011–14 were announced, which should address NGOs' current dissatisfaction by making the new implementation plan more concrete than its predecessor." One lesson learnt by NENO is that „looking back to the process, it can be said that the it should have involved also ministries, because it was their mediocre awareness and interest in EKAK that later turned out to be the weakest link of its implementation“ (Kübar 2008: 2). A problem for the functioning of the committee itself has been the lack of resources, particularly on the side of the under-funded participating NGOs (ibid.). It seems that CSOs are more satisfied with the action plan 2011 – 2014, for 2011 they state the it “continues to be implemented” (USAID 2012: 78).

#### 4.5.1.2 Institutionalisation of cooperation

Analyzing, planning and coordinating policy concerning civil society development is a responsibility of the Ministry of Interior. The Ministry of the Interior has two Ministers, the Minister of the Interior and the Minister for Regional Affairs. *The Local Government and Regional Affairs Department* under the auspices of the Minister of Regional Affairs is specifically tasked to undertake activities to support the development of civil society. (Hadzi-Miceva 2009: 14)

Activities of the Department in the field of civil society:

- ☐ Analyzing practices in use and strategic planning for the civil society;

<sup>12</sup> Codes are not available in English.

- Coordinating cooperation between sectors and institutions on the issue of civil participation;
- Improving the supporting infrastructure development for citizen participation;
- Policy making on active community building;
- Local democracy development;
- Supporting community initiatives;
- Promoting volunteer activities;
- Developing the county support system for civic initiative
- Supporting and funding of NGOs through the National Foundation of Civil Society;
- Increasing awareness about civic initiatives;
- Developing the principles for contracting out public services (local authorities level)
- Supporting the work and preparing materials and documents for the Joint Committee of the Government and NGO representatives
- Implementing and managing the Development Plan for Civic Initiative Support 2011 - 2014; coordinating and monitoring the implementation of the Development Plan and its compliance with the goals specified.

The Minister chairs the Joint Committee for Implementation of EKAK and coordinates its work. Representative of this office sits on the Supervisory Board of the National Foundation for Civil Society, and the Minister appoints its members. There is no clear formal procedure concerning communication and cooperation with NGOs which is seen as somewhat problematic by both the public sector and the NGOs. The Minister has limited powers over other ministries and their work with NGOs; and it can make recommendations about that cooperation. The Minister of Regional Affairs delivered report on the implementation of EKAK during a Parliamentary session when the results of the achievement of the document were discussed. (ibid.)

At the level of the Parliament, there is a special *Civil Society Support Group*, which includes representatives of all parties and it is one of the largest of its kind. It was established based on a decision of MPs to form such a group and it does not have separate legal status or separate administrative rules. It uses the parliamentary administrative support and receives no separate funding. The purposes of this group are to attend to issues concerning civil society and to initiate legislation in support of the development of the third sector. There is no rule which requires that they approve civil society related legislation before it is discussed in the Parliament. (ibid.) However, it was reported by CSOs that the support group formally exist, but it does not function very well (email of Urmo Kübar, October 8<sup>th</sup> 2012).

#### **4.5.2. Citizens participation in legislative processes**

The above-mentioned *Code of good practice on involvement* was developed in 2005 by the EKAK Joint Committee and the State Chancellery. It lays out “a set of principles to guide the cooperation between citizens’ associations, interest groups and public sector in decision-making processes” and “serves as a recommendation for both the public sector and citizens’ associations” (Government of the Republic of Estonia 2006: 4). The Code aims to be applied by administrative agencies in the preparation of at least the following documents: drafts of laws and their amendments; drafts of the regulations and directives of the Government of the Republic; drafts of Ministers’ decrees; documents, concepts, policies, development plans, and programs that are important to the country’s development; drafts of legislation of European Union institutions and other strategic documents (i.e. green and white books); instruction and procedures for rendering public service; conventions and international agreements, as well as the documents that are worked out within their framework, and that influence the society (Hadzi-Miceva: 2008, 67)

Although NGO participation and consultation is improving, there are still many challenges on the side of both the public and nonprofit sector. The challenges on the side of the public sector are: (1)



insufficient knowledge about potential partners (therefore the consultations are often limited for stronger and more known umbrella organizations instead of wider involvement of other types of groups or organizations); (2) insufficient knowledge about the processes of involvement, which makes the consultation process often formal without any real effort to ensure meaningful input from NGOs; (3) poor quality of drafts laws (since they are often very long and complicated texts, that NGOs are not capable to deal with); (4) poor planning of time and short deadlines (The time given to organizations for sending their feedback to draft laws is usually 2-3 weeks, which is often not sufficient when organizations want to gather their members' or constituencies' options first, especially if they are not informed in advance about forthcoming consultation processes. Thus NGOs are often involved only in consultations about ready-made draft laws instead of involving them in the stages of needs assessment and development of the draft); (5) poor capacity in giving feedback to organizations who have contributed to the law-making processes with their proposals. (ibid.)

On the other side, NGOs face the following challenges (1) lack of resources (both human and financial) to make meaningful contributions to policymaking; (2) lack of competence to comment on legal texts; and (3) lack of ability to consult and involve their members and target groups when they formulate the organization's position towards a policy or law. The solutions to these problems are being sought through trainings (e.g., NENO's annual summer school in 2007 concentrated on involvement and participation issues, bringing together NGOs and officials to discuss and exchange experiences on how to implement public involvement procedures to achieve the best results) and better funding mechanisms for NGOs (e.g., operational costs for advocacy organizations through the future Endowment). (ibid)

A further interesting initiative is the participation portal [www.osale.ee](http://www.osale.ee) ("participate" in Estonian), which was launched by the State Chancellery in summer of 2007. The portal allows civil society groups and individuals to post comments about the ongoing consultation processes, while the ministries can provide the public with draft laws, background materials as well as post polls. (ibid.)

## 4.6 Hungary

### 4.6.1 CSO – Government cooperation

#### 4.6.1.1 *Legal and policy documents on mutual cooperation*

Hungary is one of the countries having a *Strategy on civil society*.

Going back in time, the year 2002 saw the initiative of the government department for civil relations for the preparation of a strategy on civil society. The document was developed with active participation of representatives of civil society and it outlines the vision of the development of the third sector and the relationships between the state institutions and NGOs. (ibid.) Initially, the government actually envisioned the signing of a "real" compact type agreement with the representatives of the NGO sector, which would have required a single representative, body of the NGOs to sign it. Since there was strong resistance among civil society organizations against such a notion of a single representative body of NGOs, the government had to abandon this idea. (Hadzi-Miceva 2008, 62)

Among guiding principles, the strategy „recognises and acknowledges the importance of non-governmental organisations in contributing to a more deeply rooted democracy and as a means of giving full expression to individual and civil liberties“. The Hungarian government declares respect for the independence of NGOs and „accepts as essential the oversight function played by civil society“. Furthermore, „in the spirit of open legislation“, the government „wishes to ensure the possibility of civil organisations' participation in legislative and consultation process“, and „is ready to establish an equal

partnership with the representatives delegated and legitimised by the non-profit sector“. The document contains specific commitments in terms of regulatory measures, and pays special attention to funding-related issues, with a commitment to raise the share coming from the state budget, and an announcement of the introduction of a National Civil Fund. (Nahtigal 2010, 21).

In terms of civil dialogue, „The government's civil strategy seeks to provide non-profit organisations with the possibility of involvement in elaborating laws and regulations establishing the framework for the sector and serving the interests of the sector. This is an important element of the strategy. Active communication, collaboration mechanisms and communication channels need to be established at both governmental and ministerial levels.“ The document concludes with an expression of the government's readiness „to agree a compact with civil society“. (ibid.)

In 2007 the Government adopted a *Resolution on Provisions Serving the Development of Government-Civil Relations (1065/2007)* with the aim of further enhancing government-NGO relations. The Resolution identifies the governing principles and establishes procedures for cooperation with the third sector on the government level by outlining eleven tasks for the government. Following a public debate, the Government Resolution of 2007 was prepared by the Department of Civil Relations. It incorporated input from the NGOs as well as the recommendations from other ministries into the new policy document. As opposed to the Strategy, where the implementation was vested with one body, the Government Resolution of 2007 introduced a new approach with the aim to decentralize the implementation and foster cooperation with the NGOs and the line ministries. In this way, it was not only the Department of Civil Relations that had the main responsibility of communication with the whole sector, but rather, every ministry was in direct contact and cooperation with NGOs from their own specific field. The resolution was a legally binding document and the implementing ministries were all required to prepare a detailed action plan based on the assignments allocated in the Resolution. (Hadzi-Miceva 2009, 30)

During the preparation of these action plans the Ministries generally reached out to the NGOs whom they had already been working with to invite their input. In addition, the development of the plans was not a closed procedure as other interested parties could also review and provide comments to the draft action plans. The formats of the action plans may differ, but typically they first identify a specific task (e.g.: „*coordinating measures for the development of volunteering*“), then they list the department or ministry unit responsible for its implementation (e.g.: „*Department of Civil Relations*“) and the timeframe or the deadline for implementation of the tasks. They may also make reference to other parties that are going to be involved in implementation of the given activity and may name a specific NGO they will rely on (e.g.: „*National Volunteer Centre*“). Ministries were also obliged to prepare an annual report about the implementation of the objectives set out in their individual action plans and send it to the Ministry of Social Affairs and Labor every second year. The implementation reports were then all published on the central civil information portal, maintained by the Ministry (Hadzi-Miceva 2009, 33). The Resolution was withdrawn by the new Government in 2011 (source: ECNL):

#### 4.6.1.2 Institutionalisation of cooperation

In 1998, a *Department for Civil Relations* was first established in the Prime Minister's Office, and it operated under the Ministry of Labour and Social Affairs till the change in the Government in 2010. The Department was among other things responsible for initiating laws for the development of the third sector (e.g., in 2005 it was closely engaged in the drafting of the Volunteering Act) and facilitating dialogue with NGOs. It was also responsible for drafting the 2002 Government Strategy towards Civil Society and the above mentioned 2007 Resolution. The Department also provided information about available European Union funds and supervised the implementation and work of the National Civil Fund (Hadzi-Miceva 2009, 16). After the change in the Government, the Department for Civil Relations started to operate in the Ministry of Public Administration and Justice, under the auspices of the State

Secretary for Church, Minority and Non-Governmental Relations. The Department for Civil Relations is responsible for preparing the legal regulations affecting the operation and development of civil society sector and monitoring their implementation; planning of the state funding of the civil sector; harmonizing the various program supports provided to NGOs; undertaking the secretariat tasks of the National Cooperation Fund, and monitoring the work of the administrative agency of the National Cooperation Fund. Besides, the Department of Social Consultation is responsible for organizing forums for the consultation between the government and the civil society; operating and monitoring the civil information centres; proposing program for consultation; maintaining the Civil Information Website. In 2012 the State Secretariat responsible for church, minority and civil relations, including the Department for Civil Relations and the Department of Social Consultation, was moved under the Ministry of Human Resources (source: ECNL).

In addition, the Hungarian Parliament also hosted a *Civil Office*, which fulfilled an informational role; e.g. maintained a database of NGOs to which it sent out the Parliament's legislative agenda sorted by area of interest (e.g. if an NGO wanted to receive the legislative plans on environment related laws, they could sign up for such option); answered NGO inquiries; coordinated and arranged NGO participation in the various Committee meetings etc. The Civil Office operated as a unit of the Speaker's Cabinet within the Office of the Hungarian Parliament. Its legal status was regulated by the organizational and operational statutes of the Office of the Parliament and its activities were funded through the yearly budget of the Office. (ibid.) The Civil Office was closed down in 2008.

Another relevant body operating in Hungary was the *National Civil Fund*, which aimed to strengthen the operation of NGOs and develop the third sector through allocating grant support for operational costs of NGOs, research on the third sector and other types of activities. By developing its own policy on funding mechanisms, it also determined the priorities and directions of the development of the sector. The Fund was administered by a Council and a number of regionally based Colleges; elected NGO representatives sat on committees tasked with deciding on the distribution of the funds (Hadzi-Miceva 2009, 16). However, with the new non-profit law passed in December 2011, *the National Cooperation Fund* replaced the National Civil Fund. The new law changes the decision-making process for distributing funds. Until now, CSO representatives, elected through an open process, were a majority on evaluation committees. According to the new act, evaluation committees will be dominated by government-appointed representatives, and the minister will dispose personally of 10 percent of the funds. In addition, the much-criticized rules that place excessive administrative demands on CSOs receiving grants remain in place (USAID 2012, 90).

Some ministries (Ministry of Interior, Ministry of Foreign Affairs, and Ministry of Rural Development) have a department responsible for media and/or civil relations, but they have various tasks besides cooperation with the CSO sector.

#### **4.6.2. Citizens participation in legislative processes**

In regards to citizens participation in legislative processes Hungary is an exceptional country, since the obligation for the Government to cooperate with CSOs in carrying out its duties and responsibilities was written in the Constitution. On the other hand, it also granted the Government discretion to choose the model of cooperation it deems appropriate (Golubović 2010, 43). However, the Fundamental Law that came into force on January 1<sup>st</sup> 2012 does not contain this provision anymore.

In 2010 the Act CXXXI of 2010 on Public Participation in Developing Legislation was passed. The Law on Legislative Procedures **does not** set out detailed rules with respect to public participation, but only sets out the general course of consultation. For each draft responsible minister has to publish on a designated web page short information about the future legislation that will be prepared, including the titles of the legislative drafts, a short summary of their contents, and the scheduled dates of making

public the legislative drafts (art. 4). All laws, government decrees and ministerial decrees shall be submitted for public consultation with the exception of payment obligations, state subsidies, the Budget and its execution, funding received from the European Union and international sources, the promulgation of international treaties, and the establishment of organisations and institutions (art. 5). The law divides between two types of consultations; general – with posting and receiving comments via Internet, and direct – with direct invitation of the minister to stakeholder to send comments (art. 7). A long with the draft also preliminary impact study should be published. Regarding the timeframe for the consultation the laws states that “the draft, which shall be submitted for concurrent consultation with government agencies, shall – in line with the objective and entry into force of the draft – be published in a way to allow **sufficient time** for the substantive appraisal of the draft, as well as for expounding opinions and considering the merits of the received comments. The **deadline for making comments** shall be the same as that set in the course of submitting the draft for consultation with government agencies. (art. 10)” Therefore, the law does not set concrete time limits for consultations. The responsible minister has to prepare a typified summary on received comments, and, in the case of rejected comments, on the reasons for rejection. However, the law explicitly states that the minister is under no obligation to respond individually.

The Nonprofit Information and Training Centre Foundation (NIOK) made a research<sup>13</sup> between 1 April and 26 May 2011 about the deadlines for public consultations:

Type of legislation	Days for public consultation					
	0	1-3	4-7	8-14	15-	Total
<b>Law</b>	5	6	4	12	2	29
<b>Government regulation</b>	0	3	10	3	1	17
<b>Ministry regulation</b>	3	4	4	12	5	28
<b>other</b>	3	0	1	3	2	9
<b>Total</b>	11	13	19	30	10	83

The CSO Sustainability index for Hungary for 2011 reports: “The Act on Public Participation, passed in late 2010, also created a new institution called a *strategic partnership*, whereby ministries invite CSOs – among other types of organizations – to become partners with which they carry out direct consultations, based upon a written understanding. During the year, several ministries signed such contracts, but usually with chambers, churches, and other similar organizations, while requests by CSOs asking for partnerships remained unanswered.” (USAID 2012, 92) For example, Ministry of Public administration and Ministry of Rural Development engaged in such strategic partnerships with CSOs.

## 4.7 Latvia

### 4.7.1 CSO – Government cooperation

#### 4.7.1.1 Legal and policy documents on mutual cooperation

There have been numerous developments in recent years in the direction of a strengthened dialogue between state authorities and the third sector in Latvia. In 2005, a compact-type document was signed, entitled the *Cooperation memorandum between non-governmental organizations and the Cabinet of Ministers*<sup>14</sup>. Also in 2005, the government-sponsored national program *Strengthening of*

<sup>13</sup> Email from Eszter Simor, NIOK, October 2012.

<sup>14</sup> <http://www.mk.gov.lv/en/sabiedribas-lidzdaliba/sadarbibas-memorands/>, accessed in December 2012.

*civil Society* was approved. According to the USAID *NGO Sustainability Index*, „This program focuses on supportive research concerning issues relevant to NGOs. The program provides grants to NGO projects and has helped establish five NGO support centres and three smaller support units throughout Latvia. The program tries to differentiate among projects, donations and other initiatives to engage NGOs with different interests and needs.“ (USAID 2007, 136)

Preparation of the draft memorandum was initiated by the NGO sector following a meeting of 21 NGO representatives with the prime minister. More than 40 organizations expressed their opinion and submitted proposals during consultations. The document was signed on June 15, 2005 by the prime minister and representatives of 57 NGOs, and remained open for other organizations to join (The Cabinet of Ministers of the Republic of Latvia 2010a).

As one can read in the memorandum, it was developed „with the aim of facilitating operation of an efficient public administration system that meets the interests of the society by ensuring involvement of the civil society in the decision-making process“. The document includes commitments to the development of financing mechanisms for NGOs and other components of the enabling environment for civil society.

In addition, the memorandum contains several provisions regarding civil society participation in policy making. The Cabinet undertook to facilitate delegation of public administration tasks to societies, establishments and other civil society institutions, among other things by supporting the involvement of non-governmental organizations and their cooperation networks in policy making in the framework of respective programmes and cooperation agreements; by promoting the conclusion of cooperation agreements (both short-term and long-term); and by promoting the development of necessary regulatory basis to ensure more efficient participation of civil society in decision-making processes concerning issues that are within the competence of local governments.

Final provisions contain a commitment of the signatories to „at least twice a year jointly assess the course of implementation of the Memorandum and discuss issues concerning further promotion of cooperation“. The implementation was set to be coordinated and technically ensured by the State Chancellery. (see Nahtigal 2010, 22 – 24)

However, we can read in 2008 NGO sustainability Index report that the memorandum is not fully implemented despite of the special Council responsible for the implementation (see below). The main reason is that the Prime Minister did not follow through the obligations; he either regularly cancelled meetings or failed to live up to the obligations and involve NGOs in discussions on policy matters although he was expected to do so under the provisions of the memorandum.

#### *4.7.1.2 Institutionalisation of cooperation*

In 2006, the Cabinet of Ministers approved the (rules for the) functioning of the *Council for Implementation of the Cooperation Memorandum between Non-governmental Organizations and the Cabinet of Ministers*. The council is a consultative body, established with the aim of promoting the implementation of objectives and principles of the memorandum. It is tasked with organizing, assessing and improving the implementation, including the determination of respective state budget priorities and preparation of recommendations on necessary legal acts and policy planning documents connected with implementing cooperation between public administration institutions and non-governmental organizations. The council is headed by the director of the State Chancellery (the latter performs the tasks of a secretariat), and the rest of its membership is composed of a representative of the Prime Minister's Bureau, the State Secretaries of ministries, and seven authorized representatives of NGOs that have signed the Memorandum (The Cabinet of Ministers of the Republic of Latvia 2010b). The Council meets once a month and serves as a mechanism to address three types of

issues: 1) NGO issues according to the aims of the memorandum; 2) issues which appear in the work of the Ministries and are related to NGOs; and 3) thematic NGO issues (culture, social issues, education, etc.) (USAID 2007: 139). Meetings are also held between the NGOs and the prime minister – they meet twice a year to evaluate progress on cooperation and the implementation of the memorandum (Nahtigal 2010, 24).

#### **4.7.2. Citizens participation in legislative processes**

Section 5 of the above mentioned memorandum most directly refers to civic participation in the decision-making process:

The Parties undertake to continue the development, implementation and improvement of the necessary mechanisms, in order to ensure that non-governmental organizations are well-informed and able to effectively participate in decision-making processes, by ensuring that:

- a) opinions provided by non-governmental organizations are reflected in protocols of coordination of issues;
- b) representatives of interested non-governmental organizations can participate in coordination sittings, advisory councils and working groups established for developing particular projects;
- c) non-governmental organizations are informed on decisions adopted in relation to proposals submitted by them; substantiation for the adopted decisions is provided;
- d) non-governmental organizations have the opportunity to follow the development of draft legal acts and give opinions on them; non-governmental organizations are better informed on the course of processing of draft legal acts and policy planning documents in the Cabinet and ministries.

USAID also reported that in the same year, the chairman of parliament expressed a desire to strengthen communication with civil society. As a result, a working group was established to work on a special declaration, which would create institutionalized links between parliament and NGOs and support civil society in Latvia. „Consisting of three NGOs and Parliament representatives, the working group met 17 times and collected information from parliamentary commissions about co-operation with the NGOs as well as NGO views on the draft declaration. The NGOs represented were: Civic alliance – Latvia, European movement Latvia, and Coalition for Gender Equality in Latvia.“ (USAID 2007: 139)

The declaration was adopted with a vast majority by the parliament on March 30, 2006. It states that information flow from the parliament to the citizens of Latvia and NGOs must be improved. For that purpose, each commission in the parliament must appoint a contact person for NGOs. The declaration suggests that each year the parliament, in cooperation with NGOs, should organize a forum to sustain mutual communication and develop common work plans and projects (USAID 2007: 139). The first forum was organized in 2007, but reportedly did not bring about tangible results: „Although there is good cooperation between particular Parliament Committees and NGOs, this cooperation is not institutionalized. Politicians tend to use the involvement of NGOs as a public relations tool, but are not genuinely interested in substantive cooperation.“ (USAID 2008: 154) Such was the impression for 2007, but three years later, USAID observed that, „State officials increasingly accept the participation of NGOs and other civil society groups in decision making.“ (USAID 2010: 136). The 2009 USAID *NGO Sustainability Index* also reported that when the new government was formed at the beginning of 2009, almost all NGOs' proposals regarding citizen engagement were included in a subsequent government declaration (ibid.).

## 4.8 Poland

### 4.8.1 CSO – Government cooperation

#### 4.8.1.1 Legal and policy documents on mutual cooperation

In October 2007 Polish Government adopted the *Strategy of support for the development of civil society for the years 2007 – 2013*. However, already in 2009 a new strategy for the years 2009 – 2015 was passed. We can read that the first strategy was absolutely fruitless: “it did not even have any financial base or indicators that would enable one to estimate the level of its realization” (Rymysza 2009).

The Strategy starts with the simplified definitions of civil society. The first definition states that civil society is a space of activities of institutions, organizations, social groups and individuals, stretching among family, state and market, where people undertake a free debate on values constituting the common good and voluntarily cooperate with one another for the realization of common interests. According to the second definition quoted by the document civil society is a society of active citizens, mindful of common interests, society where political dependence is based on the principles of equality and social relations are based on trust and cooperation. The main aim of the Strategy is empowerment and increase of participation of citizens and their communities (ibid.).

The Strategy lists its three main strategic goals:

1. Achievement of optimal level of citizens' participation in public life, which is considered as a basic condition of active participation of citizens in shaping public affairs;
2. Quantitative and qualitative development of civil society institutions;
3. Creation of mechanisms of the functioning of a good state – which is to signify the realization of the fundamental principles adopted by the Strategy: principles of subsidiarity, participation, partnership and civic dialogue in relations between public administration and citizens.

The goals are then transformed into priorities, showing the areas where activities for the civil society development are to be carried out. These are:

1. Active and aware citizens, active local communities – this priority encompasses activities such as: civic education, activation of citizens in public affairs, activation of local communities in local partnerships and creation of local infrastructure for civic activities.
2. Strong nonprofit organizations in a good state – this priority encompasses activities aiming at: strengthening of potential of the nonprofit sector as a partner of public administration, supporting development of the organizations' infrastructure, increasing quality of management in modern public administration and promoting of civic dialogue as a medium of civic participation
3. Development of nonprofit organizations for social integration – this priority encompasses activities such as: social exclusion prevention through strengthening families and local communities and activation of people in the risk of social exclusion, assuring access to services and providing help to groups at the highest risk of social exclusion, creation of mechanisms of complex social integration
4. Development of social entrepreneurship – this priority implies the following kinds of activities: strengthening the role of the third sector as the employment provider (the employment rate in the nonprofit sector in Poland is one of the lowest in Europe), creation of mutuality forms in economy, development of Corporate Social Responsibility and innovative forms of social entrepreneurship (ibid.).

All of the four priorities to a lesser or higher degree should translate into actions affecting the third sector. The realization of the Strategy is going to be funded from several sources: E.U. grants, Polish budget, local authorities funds and other (non - E.U.) foreign funds. The Strategy is to be realized by nonprofit organization and public administration of all levels. Coordination of the implementation of the Strategy is a responsibility of a minister responsible for social affair issues, who every two years

should present to the government the report on the realization of the Strategy. The Strategy should be up-dated every four years, following broad public consultation. The Document ends with the invitation for the debate on the operationalization of the Strategy (ibid.).

#### *4.8.1.2 Institutionalisation of cooperation*

*Department of Public Benefit Activity*, which is part of the Ministry of Labour and Social Policy, is responsible for establishing institutional and legal conditions that promote development of the Polish NGO sector. The Department also provides administrative and office services to the *Council for Public Benefit Activities*. The Law on Public Benefit Activity and Volunteerism (2003) established this Council, an advisory body whose responsibilities include: to express opinions on issues concerning the application of the Law; express opinions about government draft legal acts concerning public benefit activity and volunteering; provide support and express opinions in cases of disputes between institutions of public administration and public benefit organizations; and, in cooperation with NGOs, create mechanisms for informing about the standards for conducting public benefit activity and about cases of breaches of these standards. The Council consists of five representatives of the institutions of government administration, five representatives of local government, and ten representatives of NGOs, their alliances, unions, and certain other specified types of organizations. The NGO members of the Council are appointed by the Minister of Labour and Social Policy, based on nominations submitted by the NGOs. The Minister has the right of free choice as long as the elected persons are from the list (Hadzi-Miceva 2009, 18 – 19)

#### **4.8.2. Citizens participation in legislative processes**

In Poland, following *the Act on Lobbying*, all government policies and initiatives should be communicated to the public (especially, via internet sites of ministries) and that Act affirms the right of everyone to comment on legislative proposals (Donelan, 4).

According to the Rules of Procedure of the Council of Ministers and the Standing Orders of the Sejm, the results of public consultations conducted for a specific regulation must be set out in the corresponding Regulatory Impact Assessment. In addition, a number of ministries have set up internal procedures to handle public comments. For example, comments made by the public on a regulation drafted by the legal department of the Ministry of Justice are sent to the Codification Committee for civil law or the Codification Committee for criminal law, which decides whether the remarks are justified and need to be inserted into the draft (Donelan, 6)

In practice many organizations still complain that while they might have more opportunities to raise their voices, the government does not always take their opinions into account during the development of concrete laws and regulations. Also, CSOs are often only given the opportunity to provide their opinions based on general assumptions, as opposed to the concrete principles and priorities of the proposed programs. CSOs also typically do not receive feedback on their recommendations and are not informed why these might not be considered. In addition, the process of creating legislation in Poland is governed by a number of regulations that are frequently changed (USAID 2012, 156).

## **4.9 Croatia**

### **4.9.1 CSO – Government cooperation**



#### 4.9.1.1 Legal and policy documents on mutual cooperation

The case of Croatia is probably the best case to explore the development of the cooperation documents and strategies to support CSOs development.

The first document between the Croatian Government and NGOs was the *“Program of Cooperation between the Government of the Republic of Croatia and the Non-Governmental, Non-Profit Sector”*<sup>15</sup> which was signed in 2001. The program was drafted in a highly participative manner. More than 16,000 NGOs were invited to participate in the process. Few were initially interested, although many more became interested over time, thanks to ongoing outreach efforts by the Croatian Government and leading NGOs. A cross-sectoral working group was formed to draft the document, and several public discussions (one at the national level, four at the local level) were held to present the draft document and solicit feedback (Hadzi-Miceva 2009, 8). The Program of Cooperation is based on “common values of modern democracy and the values of civic initiatives founded on social changes, cooperation, solidarity, social justice, transparency, personal ability and responsibility, participation in decision-making, consideration for personality, self-organisation, consideration for organizational diversity and continuous learning. It aims to create effective mechanisms that will enhance the communication between the Government and the Sector.” Although the Program for Cooperation listed the obligations of the Government and NGOs, it was not perceived as a legally binding document. The Program was conceived as a living document – “a starting point, not a conclusion” – with an “authority evolved from the confirmation” given by both sides. Additionally, the Program of Cooperation anticipated the creation of local and regional compacts so as to decentralize cross-sectoral cooperation. The implementation of the Program of Cooperation has been evaluated positively. It led to legislative reforms benefiting NGOs, including the new Law on Associations, the Lottery Law, the Law on Volunteerism and draft Law on Foundations, the Code of Good Practice in Grant-Giving, tax law amendments providing deductions for donations to NGOs, and the creation of local compacts in cities throughout Croatia (Hadzi-Miceva 2008, 61, 62).

Following the successful implementation of the Program for Cooperation, the Croatian Government adopted in 2006 a *“National Strategy for Creating Supportive Environment for the Development of Civil Society”*<sup>16</sup>. The Strategy outlines the goals and measures that should be accomplished by 2011 in order to increase and strengthen the legal, financial and institutional framework for the support of civil society. Specifically, the Strategy contains targeted objectives and measures in the fields of participation in decision-making, the legal and tax framework for NGOs, the institutional framework for cooperation, financing of NGOs through contracting, development of social enterprises, development of philanthropy, volunteering and foundations, social cohesion, and the role of NGOs in the process of European Union integration. The Strategy was developed through a highly consultative, collaborative and participatory process by NGOs and government officials (ibid.). Upon the adoption of the National Strategy the Government Office for NGOs developed an Operational Plan for Implementation of the Strategy which was adopted by the Government in February 2007. The Operational Plan clearly outlines all the measures necessary to support the implementation of the Strategic goals, the deadlines and the responsible ministries or state bodies. The specific bodies assigned to undertake the tasks in the Operational Program report to the Office for Cooperation on the accomplishments and challenges. The Office for Cooperation is responsible to submit yearly reports to the Government on the progress of the implementation. The report is then reviewed and discussed by the Government at experts working group and coordination meetings before it is adopted (Hadzi-Miceva 2009, 31).

The Office for Cooperation made a plan for the evaluation report about the realisation of the measures for the operational plan:

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<sup>15</sup> <http://www.uzuvrh.hr/page.aspx?pageID=80>, accessed in December 2012.

<sup>16</sup> [http://www.uzuvrh.hr/userfiles/file/Nacionalna\\_Strategija\\_ENG.pdf](http://www.uzuvrh.hr/userfiles/file/Nacionalna_Strategija_ENG.pdf), accessed in December 2012.

Number of planned measures	103
Number of successfully realised measures	37
Number of partially realised measures	56
Number of measures, for which realisation started	93
Number of measures, for which realisation has not started	10
Number of measures, for which there is delay of realisation according to the deadline	66
Percentage of the realisation of the operational plan	90 %

(UZUVRH 2011, 1)

The Government of the Republic of Croatia in July 2012 passed new *National Strategy for the creation of an enabling environment for civil society development 2012 – 2016*<sup>17</sup>. Apart from the introductory and final provisions, the document comprises four main parts: the value basis of relations between the state and civil society, civil society development in Croatia, National Strategy areas and National Strategy implementation. The most important and the most extensive part is the one that defines the basic areas of the National Strategy, wherein four areas are referred to:

- the institutional framework for civil society development support (one of the main emphasis being promotion and ensuring equal civil society development in all Croatian regions),
- civil society and participatory democracy (role of citizens in the political process, their competence for participating in the process of making political decisions and shaping public policy, democratic citizenship education, volunteering and non-profit media),
- strengthening the role of CSOs for social and economic development and activity (social service provision by CSOs, social innovation and social entrepreneurship development), and
- further civil society development within the international context.

The strategy defines objectives and measures for implementation for each of the above mentioned areas; e.g. implementation activities needed for achieving the objectives and measures; implementing and co-implementing bodies; deadlines; funding sources necessary for the implementation; and the indicators on the basis of which the progress of the implementation is to be evaluated. The document lists in total 26 objectives, 27 measures and 91 implementation activities.

The procedure of drawing up the National Strategy began at the NGO Days 2011 when about two hundred participants developed the proposals for the vision of civil society development in Croatia. As a continuation of the process a discussion on starting points for the drawing up of the National Strategy took place in June 2011. About thirty participants, who were the representatives of state administration bodies and CSOs, took part in the discussion. In line with what was agreed at the public debate, starting in September 2011 about fifty representatives of CSOs and state administration bodies were involved in writing up the proposals for the Strategy. As a result of these efforts, public consultations on the Draft Strategy were conducted from 22 May to 6 July 2012 and a public debate in which CSO representatives took part was held on 4 June. A few expert meetings were also held on specific measures and activities from the National Strategy, e.g. social service provision and non-profit media activities. Furthermore, CSOs were given the opportunity of equal participation in all phases of the document development, the final occasion being the NGO Days 2012 (14-16 June) where the participating CSO representatives had the opportunity to offer additional comments on the Draft National Strategy (see also web page of the Government's Office for the cooperation with NGOs: <http://www.uzuvrh.hr/vijestEN.aspx?pageID=1&newsID=1883>).

<sup>17</sup> <http://www.uzuvrh.hr/userfiles/file/Nacionalna%20strategija%20FINAL.pdf>, accessed in December 2012.

#### 4.9.1.2 Institutionalisation of cooperation

Croatia has institutionalised a three-partite model, which supports CSO – Government cooperation.

*Government Office for Cooperation with NGOs* was founded by the Regulation on Government Office for Cooperation with NGOs in 1998 with the aim to create conditions for cooperation and partnership CSOs in Croatia.

The Office has a wide scope of activities, from cooperation in creating and proposing new legislative frameworks for the activity of non-governmental, non-profit sector in the Republic of Croatia, monitoring the implementation of the National Strategy for the Creation of an Enabling Environment for Civil Society Development and measures of the Operational Implementation Plan for the Strategy to forming a programme, standards and recommendations for financing the activity of civil society organizations from the state budget and other public funds, as well as pre-accession and structural funds of the European Union.

According to the effective Regulation on Government Office for Cooperation with NGOs, the task of the Office is to coordinate the work of ministries, central state offices, Croatian Government offices and state administrative organizations, as well as administrative bodies at local level in connection with monitoring and improving the cooperation with the non-governmental, non-profit sector in the Republic of Croatia.

The Office implements projects supporting civil society development funded from the European Commission programmes and stipulated by the Central Finance and Contracting Unit of the Ministry of Finance.

Under the Code of Good Practice, Standards and Benchmarks for the Allocation of Funding for Programmes and Projects of NGOs<sup>18</sup> adopted by the Parliament in February 2007, the Office works on improving the standards for financing organizations' programmes from the state budget (<http://www.uzuvrh.hr/page.aspx?pageID=73>).

*The Council for Civil Society Development* is an advisory body to the Government of the Republic of Croatia acting towards developing cooperation between the Government with the civil society organisations in Croatia in the implementation of the National Strategy for Creating an Enabling Environment for Civil Society Development; the development of philanthropy, social capital, partnership relations and cross sector cooperation. The functioning of the Council is based on the Decision on the Establishment of the Council for Civil society Development, adopted in 2009 and it regulates its work through its rules of procedure. The logistic and administrative work for the Council is done by the Office for Cooperation with NGOs of the Croatian government.

Tasks of the Council for Civil Society Development:

- participation in constant monitoring and analysis of public policies referring to or affecting civil society development in Croatia and cross sector cooperation
- participation in expressing opinions to the Government on legislation drafts affecting the development of civil society
- cooperation in planning priorities for the national programmes for public funding of programmes and projects of civil society organisations along with the analysis of yearly reports of the ministries and offices of the Government of the Republic of Croatia about projects and programmes financed

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<sup>18</sup> [http://www.uzuvrh.hr/UserFiles/Code%20of%20good%20practice\\_SG-MDx3.pdf](http://www.uzuvrh.hr/UserFiles/Code%20of%20good%20practice_SG-MDx3.pdf), accessed in December 2012.

- participation in programming and setting priorities for the use of pre accession programmes and funds of the EU, open for Croatia, based on an efficient system of consultation with the civil society organisations.

The Council has 27 members out of which 12 representatives of relevant state administrative bodies and the Croatian Government offices, 12 representatives of non-governmental, non-profit organizations and 3 representatives of civil society from foundations, trade unions and employers' associations. (<http://www.uzuvrh.hr/page.aspx?pageID=75>) The members of the Council who represent civic organizations should work in preliminary defined fields (one representative is required for each field). Each organization can nominate candidates. All of the candidates who fall within the requirements (such as proper experience, letter of motivation, CV, etc.) are shortlisted after the preliminary nominations. After that begins a 15-day period in which organizations vote by filling up and submitting by mail a special form, signed and stamped by the person who represents the organization. The Government Office for Cooperation with NGOs publishes a list including the winners and all the other candidates, as well as the number of votes for each candidate. The term of the members is three years, and some may be re-elected. The meetings have to take place at least every three months, and if necessary earlier than that. Members of the Council do not receive remuneration for their work, although their expenses can be reimbursed. The Council may establish Committees whose members may be remunerated depending on whether there is available funding for that. The Council has to submit an annual report on its activities to the Government (Hadzi-Miceva 2009, 20).

The *National Foundation for Civil Society Development* was established by the Republic of Croatia by a special Act passed by the Croatian Parliament on 16 October 2003, as a public foundation with the main purpose of promoting and developing civil society in the Republic of Croatia. The National Foundation was registered on 24 November 2003 with founding assets of HRK 2 million and a constant inflow of funds from a part of the revenues of games of chance and funds from the state budget, with the aim of providing expert and financial support to programmes that promote sustainability of the non-profit sector, cross-sector cooperation, civil initiatives, philanthropy, volunteering, as well as the advancement of democratic institutions in the society. According to the European and global classification, the National Foundation is a mixed public foundation that combines grant-giving programmes (Grant Giving Foundation) and operational activities in collaboration with other organizations (Operative Foundation) (National foundation: 2011, 5). The Government of the Republic of Croatia appoints the members of the management board and the director of the National Foundation. The management board has 9 members of which 3 are representatives of bodies of state administration (The Ministry of Finance, the Ministry for European Integration and the Ministry of Science, Education and Sport), one representative of units of local and regional self-government and five representatives of organizations and experts in the development of the civil society (Hadzi-Miceva 2009, 20).

#### **4.9.2. Citizens participation in legislative processes**

The *Code for Consultations with the interested public in the procedures of adopting laws, regulations and other legal acts*<sup>19</sup> was adopted by the Government on 21 November 2009. The final text "was the result of a broad consultation process that the Office for Cooperation with NGOs and the Council for Civil Society Development conducted with numerous NGOs. The code should help ensure the involvement of NGOs in decision-making processes, as it defines and recommends the ways in which the consultation processes should be managed in order to involve representatives of all interested parties." (USAID 2010, 88)

<sup>19</sup> [http://www.uzuvrh.hr/userfiles/file/code%20of%20practice%20on%20consultation-croatia\\_final.pdf](http://www.uzuvrh.hr/userfiles/file/code%20of%20practice%20on%20consultation-croatia_final.pdf), accessed in December 2012.

General principles of consultation laid out in the code are participation, mutual trust, transparency and responsibility, and constructiveness. To sum up the minimum standards and measures for consultations: the public has to be informed in a timely fashion about plans to adopt laws and other regulations; proposals have to be made public online or in other ways; deadlines for the submission of comments and proposals have to be clearly stated and should not be shorter than 15 days; feedback has to be provided publicly regarding the effects of the consultation (acceptance or refusal of proposals); all state agencies with the mandate to draft regulations have to appoint coordinators for consultations. Considering the needs and available resources, the process of consultations can also entail the inclusion of experts as representatives of interested public (who can be appointed as members of working groups), and/or the organisation of public consultations on the financial, social, environmental and other impacts of laws, regulations and other legal acts. On the other hand, minimum standards can be lowered in urgent cases, which particularly refers to the dynamics of EU accession requirements. (Nahtigal 2010, 13).

From the practice we can read that the implementation of the Code of Consultation had a slow start. The coordinators for implementation were appointed by the state administration bodies in 2010, and the Commission for Combating Corruption supported the use of the code as the principle tool for education of legislative bodies. However, unclear portions of the code's text created confusion and impeded implementation. Amendments to sharpen the text are expected in 2011 (USAID 2011, 63).

## **4.10 Montenegro**

### **4.10.1 CSO – Government cooperation**

#### *4.10.1.1 Legal and policy documents on mutual cooperation*

*Strategy for Cooperation between the Government and NGOs* from 2009 is the first strategic documents that establishes principles of cooperation and proposes clear actions, measures and institutional procedures for achieving cooperation.

The Strategy has two general and three specific objectives, elaborated further with specific measures contained in the Action plan. General objectives are enhancement of the normative and legal framework for establishing and functioning of NGOs, as well as enhancement of the institutional framework for cooperation with NGOs. Specific objectives are:

- Enhancement of informing, consulting, participation in development and the assessment of public policies – develop a culture of dialogue, improve mutual flows of reciprocal flows of information, develop a system of consultation with NGOs, secure greater participation on part of NGOs in the work of the bodies formed by the Government, ministries and other public administration bodies;
- Developing a more favourable environment for functioning of NGOs - strengthen the participation of NGOs in process of European integration, encourage the development of voluntarism, secure the participation of NGOs in civic education and lifelong learning, secure equal access to public institutions for people with disability;
- Promotion of the financial sustainability of NGOs - promote proper procedures and criteria for the financing of NGOs from public funds, encourage a culture of giving and promote corporate social responsibility.

#### *4.10.1.2 Institutionalisation of cooperation*



Cooperation between the Government and civil society in Montenegro relies on the *Government's Office for Cooperation with NGOs* and a network of liaison officers in ministries and other state administration bodies.

The Office for Cooperation was established as late as 2007 on the basis of a political mandate provided in 2006 by a Government's document "Basis of Cooperation between the Government of the Republic of Montenegro and Nongovernmental Organizations" and the following Conclusion. This document, which was the first of the kind, set out an agenda for improving the traditionally poor Government – civil society relations by establishing such an Office.

The Office performs tasks related to preparation of plans, programs, projects and other activities in line with the principles and objectives set out in the documents "Basis of cooperation" as well as in other documents - by developing mutual cooperation and coordination, not affecting the independence of NGOs and enhancing transparency of their efforts and work of NGOs, in order to continue building open and democratic society. The Office serves as administrative and technical support for Governments Council for Cooperation with NGOs. The Office also coordinates work of state bodies in the field of cooperation with NGOs, as well as educates them and connects them in the internal network- infrastructure of state administration bodies for cooperation with NGOs (TACSO 2011, 16).

The TACSO's needs assessment report identified key problems in the work of the office:

Lack of well-defined responsibilities/competencies;

- The Office does not have its own separate budget, as it is integral part of the General Secretariat of the Government and its budget;
- Lack of higher number of qualified staff – in addition to the Head of Office and one administrative person, only two qualified person is employed and one more is planned to engage in coming period;
- High expectations from the Office and government bodies, which do not correspond to its real competencies- budget and available human resources;
- New legal competencies not well followed with additional resources dedicated (ibid.).

The implementation report states that the system of networking and coordination through liaison officers is also not functioning well. Liaison officers change their positions frequently, causing confusion in communication with NGOs. Newly appointed liaison officers often have poor understanding of civil society and lack experience of working with CSOs, and so require capacity building and adequate time to gain proficiency (ibid.).

The above mentioned Strategy envisaged establishing of a special advisory body of the Government- a *Council for cooperation with CSOs*. The Council for cooperation with CSOs was established in 2010 and it became fully operational in early 2011. The Council represents consists of 13 representatives of the Ministries and 12 representatives of non-governmental organizations (ibid.). In 2011 the Council held seven sessions, and at these sessions it considered all key documents of relevance for non-governmental organizations (Draft Law on NGOs, draft Decree on distribution of revenues from games of chance, Report on cooperation between state administration bodies and nongovernmental organizations, Analysis of the model of financing of NGOs from the public funds, monthly reports on implementation of EC recommendations in regard to civil society, draft acts on cooperation between state administration bodies and NGOs, draft act on public involvement in legislative processes etc.) (see Vlada Crne Gore 2012).

Responsibilities of the Council include: monitoring of implementation of the Strategy and results of activities envisaged by the Action Plan for Implementation of the Strategy; providing opinion to the Government on draft regulations that affect institutional and normative framework for work of non-

governmental organizations in Montenegro in order to create a supportive environment for their work and development; it impacts improving of complementarities and intensification of mutual relations in the definition of national public policies and their implementation; initiating adoption of new and amendments and changes of the existing regulations in order to create a better normative and institutional framework for the work of nongovernmental organizations and achievement of other objectives set forth by the Strategy; providing support to inclusion of relevant NGOs in the process of formulation and implementation of public policies, that is participation of non-governmental organizations in the discussions on regulations, strategies and programs; encouraging cooperation between the Government and state administration bodies with nongovernmental organizations in the country and abroad, as well as with relevant actors in the international community in defining and achievement of international and interagency cooperation; considers interim and annual reports of state administration bodies on cooperation with non-governmental organizations in the specific areas and on allocated funds for projects of NGOs and reports to the Government on the extent of achieved cooperation; initiation of removal of potential obstacles in order to enable realization of specific activities from the Action plan; reviewing other issues and documents connected to implementation of the Strategy and activities set forth in the Action plan (TACSO 2011, 17).

#### **4.10.2. Citizens participation in legislative processes**

The Government of Montenegro passed two very important regulations in the last year. The first one, *Regulation on the manner and procedure of cooperation of government agencies and non-governmental organisations*, was passed in December 2011. It defines methods and procedures of cooperation with NGOs in the decision-making process. The regulation defines two types of cooperation: consultations with NGOs and NGO participation in governmental/ministerial working bodies. The state administration organs are obliged to consult with NGOs when drafting laws and regulations. Methods of consultations are meetings (seminars, roundtables, workshops, etc.) and written and/or electronic communication. The state organ must publish an invitation for NGOs to express interest for consultations on the concrete act. Together with expression of interest NGOs can also propose a method of consultation. The state organ needs to prepare a list of interested organisations for the concrete draft and publish a consultation report after the consultation is finished. For the NGO participation in the working body the regulation envisages the procedure of selecting NGO representatives (see below.).

CRNVO, Centre for the Development of NGOs, prepared a report about the implementation of the regulation<sup>20</sup>. The report states that 6 out of 30 state administration bodies published 11 calls for consultations, 3 out of these 6 state administration bodies prepared 5 feedback reports. As to the NGO participation in the working bodies, 29 working bodies was established with altogether 37 NGO representatives. The most worrisome is that only 15 out of 51 state administration bodies published contact details of persons responsible for the cooperation with NGOs.

The second regulation, *Regulation on procedure and methods of public consultations in preparation of legislation*, was passed in February 2012. Public consultation under this regulation is a consultation with organs, organisations, associations and individuals in an early stage of law drafting. The same as in the above regulation, methods of consultations are meetings (seminars, roundtables, workshops, etc.) and written and/or electronic communication. Public consultation is required in the preparation of all laws regulating the rights, obligations and legal interests of citizens with the exception of laws that regulate issues of defence and security, the annual budget, when emergency, urgent or unforeseen circumstances emerge or when the law foresees only minor changes. The responsible ministry has to publish a list of laws, strategic and other documents that will be prepared in the respective year 5 days after the normative program of the government is passed. Public consultation begins with the

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<sup>20</sup> <http://www.crnvo.me/index.php/vijesti/crnvo-vijesti/7889-izvjetaji-o-saradnji-nvo-i-organa-dravne-uprave>

publication of the public call on the web page. Furthermore, the responsible ministry has to send the public call to all those, who could be interested. The deadline for commenting shall not be shorter than 20 days. After consultation is finished the ministry has to publish a report (number of participants in consultation, number of submitted comments, summary of comments that were or were not accepted with explanation of reasons). The report shall be published 10 days after the closing date of the consultation.

CRNVO also prepared a report about the implementation of the latter regulation<sup>21</sup>. They followed its implementation from March to September 2012 with questionnaires and survey of the ministries' web-pages. The results show that only 3 out of 16 ministries published a list law laws to be drafted/amended. Out of 16 ministries 6 ministries published altogether 12 calls for public consultations in the early stage of the law-drafting. After the consultations 3 ministries published altogether 4 feedback reports. Call for consultations on the already drafted text was published 16 times by 8 different ministries. Public consultations were organised through roundtables, public hearings in the local municipalities, through e-mail and web portal. Only 3 feedback reports were published after the consultations.

## **4.11 Australia**

### **4.11.1 CSO – Government cooperation**

#### *4.11.1.1 Legal and policy documents on mutual cooperation*

The Australian national compact was launched in March 2010 by then Prime Minister Kevin Rudd, as a part of the social inclusion agenda.<sup>22</sup> Within the government, Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA) was the lead department in the development of the document, supported by an Across Government Working Group. According to FaHCSIA's web site, the compact was developed "as a high-level, aspirational and principles-based document that provides a framework for new ways of governing, including through forming innovative partnerships with the Sector".

As one can also read on FaHCSIA's web page, the compact was developed through extensive consultations. In the first phase, the Australian Council of Social Service was commissioned to gather initial views and principles with its members and other organisations. A discussion paper on the compact was distributed and a series of public forums held across Australia from July to October 2008. The second phase of consultation, entailing expert meetings, workshops, online survey and other methods, was closed at the end of October 2009. All feedback was summarised in a special report about consultation, which overall "indicated broad support for the development of a Compact to improve relationships and ways of working between the Government and the Sector." In 2009, the development of the compact was supported by the National Compact Joint Taskforce, including members from Third Sector organisations, Commonwealth Government agencies, local government and the Australian Council of Trade Unions. It "contributed to the development of the draft Compact that was circulated for broad consultation with the Sector".

The final document is mostly of declaratory nature, but given the seemingly very broad consensus about the need to strengthen relations between the government and the third sector, it does represent a major step forward and carries potential for a lasting impact. It lays down the shared vision, the

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<sup>21</sup> Ibid.

<sup>22</sup> The social inclusion agenda, according to the Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA) web site, is "a whole-of-government approach to provide opportunities for all Australians to participate in the life of the nation". It recognises "the critical role the Third Sector plays in delivering services, advising and developing social policy, and advocating on behalf of marginalised groups".



purpose and status of the compact, the shared principles and aspirations, as well as priorities for action.

The shared vision entails working together to improve social, cultural, civic, economic and environmental outcomes. The purpose of the compact is to provide a foundation for action to improve working relationships, strengthen the third sector's viability and develop and deliver better policy and programs. The shared principles include a recognition of the vital importance of a strong, independent third sector for a fair, inclusive society, as well as that the great diversity of the sector is a significant strength; a statement that authentic consultation, constructive advocacy and genuine collaboration will lead to better policies, programs and services; a commitment to enduring engagement with marginalised and disadvantaged Australians; praise for the value of multicultural society; and the need to develop measurable outcomes and invest in accountability mechanisms to demonstrate the effectiveness of joint endeavours. Aspirations cover the relationship between the government and the third sector, engagement and consultation, achieving better results and a more sustainable sector. (Nahtigal 2010, 45 - 46)

The final part of the document lists priorities for action:

- (1) Document and promote the value and contribution of the Sector.
- (2) Protect the Sector's right to advocacy irrespective of any funding relationship that might exist.
- (3) Recognise Sector diversity in consultation processes and Sector development initiatives.
- (4) Improve information sharing including greater access to publicly funded research and data.
- (5) Reduce red tape and streamline reporting.
- (6) Simplify and improve consistency of financial arrangements including across state and federal jurisdictions.
- (7) Act to improve paid and unpaid workforce issues.
- (8) Improve funding and procurement processes.

In February 2010 the *National Compact Sector Advisory Group* was convened to help:

- develop the implementation strategy for the National Compact
- promote the National Compact across the sector
- advise the government on the relationship between the National Compact and the not-for-profit sector reform agenda.

The Not-For-Profit Sector Reform Council (see below) was announced in December 2010 and replaced the functions of the National Compact Sector Advisory Group (<http://www.nationalcompact.gov.au/about-us/history#sectoryadvisory>).

#### *4.11.1.2 Institutionalisation of cooperation*

In October 2010 *The Office for the Not-for-Profit Sector* was established in the Department of the Prime Minister and Cabinet to drive and coordinate the not-for-profit sector reform agenda. The Office provides secretariat support to the Not-for-Profit Sector Reform Council and an Interdepartmental Committee on Not-For-Profit Reform and is also responsible for some functions that were transferred from the Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA), including:

- volunteering policy
- some volunteering program funding (does not include funding for volunteer grants)
- implementation of the National Compact: *working together*.

The Office is divided into two sections:

##### 1. Regulation and Tax Reform

This section is responsible for oversight of not-for-profit reform; convening an interdepartmental committee to progress not-for-profit reforms and coordinate the implementation of the National Compact across government; providing secretariat support to the Not-for-Profit Sector Reform Council and working groups; and coordinating efforts to reduce red tape.

## 2. Social Investment, Philanthropy and Volunteering

This section develops and implements policy that is integrated with the Not-For-Profit Sector Reform agenda and improves the environment for social investment, philanthropy and volunteering. This section is also responsible for administered grant funding under the Volunteer Management Program, as well as the implementation of projects under the National Volunteering Strategy (<http://www.notforprofit.gov.au/nfp-reform/office-not-profit-sector>).

*The Not-for-Profit Sector Reform Council* was established in December 2010 to support the Office for the Not-for-Profit Sector to implement the Government's commitment to smarter regulation, reduced red tape and improved transparency and accountability of the sector. The role of the Council is to provide support to the Office in its role to drive and coordinate the Government's not-for-profit sector reform agenda.

The Council provides advice to the Government on not-for-profit issues, including:

- examining the scope of a national 'one-stop shop' regulator for the sector including its role, feasibility and structure;
- streamlining Commonwealth Government tendering and contracting processes for government funded not-for-profit organisations, including the development of a common form contract; and
- harmonisation of fundraising and other Commonwealth, state and territory laws,
- implementation of the National Compact: working together ([http://www.notforprofit.gov.au/about-us/terms\\_reference](http://www.notforprofit.gov.au/about-us/terms_reference)).

### **4.11.2. Citizens participation in legislative processes**

The Australian Government is increasingly using the internet to provide a channel for public consultations on specific topics. These consultations link to agency websites where the relevant agency has published a discussion or consultation paper, which can be responded to via the internet or by postal mail. Public consultations are targeted to anyone who is interested as well as experts, peak bodies and interest groups (<http://australia.gov.au/news-and-media/public-consultations>).

The Australian Government published a *Best Practice Regulation Handbook* (<http://www.finance.gov.au/obpr/proposal/handbook/appendix-C-best-practice-consultation.html>), which contains basic consultation principles:

- **Continuity** - consultation should be a continuous process that starts early in the policy development process.
- **Targeting** - consultation should be widely based to ensure it captures the diversity of stakeholders affected by the proposed changes. This includes State, Territory and local governments, as appropriate, and relevant Commonwealth departments and agencies
- **Timeliness** - consultation should start when policy objectives and options are being identified. Throughout the consultation process stakeholders should be given sufficient time to provide considered responses.
- **Accessibility** - stakeholder groups should be informed of proposed consultation, and be provided with information about proposals, via a range of means appropriate to those groups.
- **Transparency** - policy agencies need to explain clearly the objectives of the consultation process, the regulation policy framework within which consultations will take place and provide feedback on how they have taken consultation responses into consideration.

- **Consistency and flexibility** - consistent consultation procedures can make it easier for stakeholders to participate. However, this must be balanced with the need for consultation arrangements to be designed to suit the circumstances of the particular proposal under consideration.
- **Evaluation and review** - policy agencies should evaluate consultation processes and continue to examine ways of making them more effective.  
(<http://www.finance.gov.au/obpr/consultation/gov-consultation.html>)

## 4.12 Canada

### 4.12.1 CSO – Government cooperation

#### 4.12.1.1 Legal and policy documents on mutual cooperation

The compact-type agreement in Canada is called accord and it was signed by the prime minister and launched in December 2001, under the title *Accord between the Government of Canada and the Voluntary Sector*<sup>23</sup>. It was “a culmination of a Voluntary Sector Initiative” (Casey et al. 2008: 13) which the government had initiated a few years earlier. The preceding institutional and other developments are rather extensively documented (see for example Casey et al. 2008, Hayton 2003, Brock 2000, as well as the accord itself), among them the founding of the Voluntary Sector Roundtable in 1995, bringing together 12 umbrella organisations. In late 1997 the Roundtable appointed a committee of eminent persons, and that produced the report *Building on Strength: Improving Governance and Accountability in Canada's Voluntary*<sup>24</sup>. The so-called *Broadbent report* (named after the committee's chair) recommended that the federal and provincial governments enter into “discussions with the sector to establish mechanisms, such as compacts for promoting understanding and agreement on appropriate conduct and the future of relationships between the sector and governments” (Broadbent 1999: iii, quoted in Casey et al. 2008: 14).

The document promotes the values of democracy, active citizenship, equality, diversity, inclusion and social justice, and the principles of independence, interdependence, dialogue, co-operation, collaboration and accounting to Canadians. As regards dialogue, the parties expressed recognition “that sharing of ideas, perspectives, and experiences contributes to better understanding, improved identification of priorities, and sound public policy.” Thus they agreed that dialogue should be open, respectful, informed, sustained, and welcome a range of viewpoints. It should be carried out in a way which respects each party's confidential information, and builds and maintains trust. Furthermore, appropriately designed processes and governance structures are necessary to achieve sustained dialogue (Nahtigal 2010, 47).

Both parties made a set of commitments, starting out with shared ones, such as working together, promoting the accord and developing mechanisms to put it into action. The government vowed to recognize and consider the implications of its measures on voluntary sector organisations; recognize the need to engage in dialogue; and address the issue of ministerial responsibility for the continued development of the relationship with the voluntary sector. The latter in turn committed to identifying and acting on important issues and trends in communities; reflecting the diversity of voices and views,

<sup>23</sup> [http://www.vsi-isbc.org/eng/relationship/the\\_accord\\_doc/index.cfm](http://www.vsi-isbc.org/eng/relationship/the_accord_doc/index.cfm), accessed in December 2012.

<sup>24</sup> [http://www.ecqi.org/codes/documents/broadbent\\_report\\_1999\\_en.pdf](http://www.ecqi.org/codes/documents/broadbent_report_1999_en.pdf), accessed in December 2012.

representing them to the government; addressing the issue of responsibility for the continued development of the relationship with the government. (ibid.)

Commitments are also made in terms of taking the accord (described as the starting point of a journey) forward, for example by developing appropriate organizational structures, processes for monitoring the implementation and resolving disputes, as well as codes or standards of good practice on aspects such as policy dialogue and funding. Regular meetings between Ministers and sector representatives were envisaged, as were ongoing actions to increase awareness about the accord. The *Code of Good Practice on Funding*<sup>25</sup> and the *Code of Good Practice on Policy Dialogue*<sup>26</sup> were developed as a resource of tangible, concrete ideas about how to take the spirit and guidelines of the Accord and put them into action in both government and voluntary sector organizations.

Other tools to help organizations implement the Accord include:

- A generic PowerPoint presentation on the Voluntary Sector Initiative and the Accord and Codes that can be customized to meet training or briefing needs
- A short training video, *The Accord and Codes: A Practical Guide*, that provides examples of good practices already in use
- *The Rubber and the Road: A Workbook for Implementing the Codes of Good Practice*
- A CD-ROM containing all of the above plus useful web links and contacts (<http://www.vsi-isbc.org/eng/relationship/accord.cfm>)

Although the Canadian case is presented in every accessible review of existing mechanisms for the institutionalization of civil dialogue, the accord itself has reportedly more or less vanished from the Canadian policy landscape. As noted by Casey et al (2008: 16), “The Accord and the Voluntary Sector Initiative appear to have lost widespread stakeholder support relatively quickly. The February 2006 election of a Conservative Party government (after 12 years of Liberal Party rule) has now consigned them to a historical reference, mentioned almost only in the past tense...”. Another observation by the same research team is that, “The Accord itself was seen as a positive result when it was launched, but it appears to have got bogged down in operational matters (which had project funding and when that ended, so did the projects), and ultimately was not seen to have addressed big policy issues.” (ibid.: 17)

#### 4.12.1.2 Institutionalisation of cooperation

The *Voluntary Sector Task Force* (VSTF) was initially established in the Privy Council Office in June 1998 to coordinate the preparation of advice to Cabinet on the relationship of the government with the voluntary sector. The government had pledged to work with the voluntary sector in three key areas: building the relationship, strengthening capacity and improving the regulatory framework.

In June of 2000, with the announcement of the Voluntary Sector Initiative (VSI), the VSTF became the focal point in government for centralized coordination and policy development for the VSI, and for working with the voluntary sector and 22 federal departments and agencies. Its mandate, as part of a coherent federal policy approach, was to advise and support the Reference Group of Ministers on the voluntary sector, as well as departments and agencies, on the state of the voluntary sector-government relationship and on actions to be taken to strengthen the partnership and the voluntary sector's capacity.

The Task Force had three primary responsibilities:

- Develop an Accord with the sector;

<sup>25</sup> [http://www.vsi-isbc.org/eng/funding/funding\\_code.cfm](http://www.vsi-isbc.org/eng/funding/funding_code.cfm), accessed in December 2012.

<sup>26</sup> [http://www.vsi-isbc.org/eng/policy/policy\\_code.cfm](http://www.vsi-isbc.org/eng/policy/policy_code.cfm), accessed in December 2012.

- Coordinate and manage the overall government relationship with the sector on the VSI; and
- Support government VSI activities.

As the VSTF wound down from November 2002 to the end of January 2003, staff made a concerted effort to ensure a smooth transition of the continuing responsibility to the Department of Canadian Heritage, providing a solid foundation from which to move forward ([http://www.vsi-isbc.org/eng/about/vstf\\_report/doc2.cfm](http://www.vsi-isbc.org/eng/about/vstf_report/doc2.cfm))

#### **4.12.2. Citizens participation in legislative processes**

In the *Code of Good Practice on Policy Dialogue* the government and the third sector expanded on commitments made in the accord but fell short of specifying time frames and other aspects of procedures for consultation. However, the government did pledge to draw on the full range of methods to engage in a dialogue with the voluntary sector at the various stages of the public policy process, including written consultations, opinion surveys, focus groups, user panels, meetings and various Internet-based approaches. Other commitments by the government include making available appropriate statistical and analytical information, making every effort to plan and co-ordinate policy dialogue so as to avoid overlapping requests for participation in the same period, and ensuring that information about the results of dialogue and consultations is made available to those engaged in the policy process. The voluntary sector's commitments include strengthening policy capacity, ensuring diversity of input and representing the views of their constituents, where appropriate and possible build consensus by improving co-ordination within the sector, etc.

All Canadian ministries have a special section on their web page dedicated to public consultations (e.g. Ministry of Justice: <http://www.justice.gc.ca/eng/cons/index.html>).

### **4.13 Moldova**

#### **4.13.1 CSO – Government cooperation**

##### *4.13.1.1 Legal and policy documents on mutual cooperation*

In December 2008 the Parliament passed the *Civil Society Development Strategy for 2008-2011*. This document can be considered a major breakthrough in the field of state-civil society relationships in the Republic of Moldova. The Strategy identifies a number of priorities for the government that are pivotal for the development of civil society in Moldova and establishes principles and values for cooperation and relations between public authorities and civil society. Strategic priorities include i) better institutionalization of the consultation, monitoring and evaluation of public policy processes; ii) developing an enabling legal and fiscal framework for CSOs; and iii) contributing to civic activism and volunteering. As stated in the Strategy, it is based on the principles of civil society's active involvement, public participation in policy-making, mutual respect, partnership between government and nongovernmental sector, obligation, and responsibility. It also calls for political autonomy of civic initiatives. The document promotes sustainable and balanced development of the CSO sector, both on regional and local level, and their equal treatment. Initially, the Strategy was supposed to be supported by an Action Plan as well. However, the prior vision of introducing the Action Plan within four months upon the adoption of the Strategy fell short due to the political turmoil. At present, the Action Plan exists only in a draft form that was prepared by the State Chancellery and has been circulated among the corresponding ministries. The draft Action Plan includes tangible goals and a timeline for achieving the objectives outlined in the Strategy for Civil Society Development. Despite the fact that the Action Plan has not been officially approved, its priorities and corresponding activities are part of some

Ministries' internal planning and are being followed as outlined in the draft version of the Action Plan (Asipovich 2010, 81).

The new strategy for 2012 – 2015 was passed by the parliament in September 2012. The purpose of the Strategy is to create a favourable framework for developing active civil society, capable to progressively contribute to the democratic development of Moldova, to stimulate social cohesion, and to develop social capital. The Strategy is a significant and comprehensive policy document that outlines Government's objectives for the next four years in terms of legal and fiscal regulation of the civil society sector. It ensures that there is a proper follow up for the ongoing legal reforms, e.g. regulations on social contracting, as well as sets new objectives for policy consideration, e.g. establishing new mechanisms for public financing of CSOs. The important novelty of the document is that it includes a detailed and concrete Action Plan for implementation of the Strategy with the timeframe, responsible bodies for implementation, sources of funding and progress indicators (ECNL 2012, 1).

The Strategy was prepared through an inclusive and participatory process with involvement of CSOs and representatives of several Ministries, State Chancellery and members of Parliament in line with democratic policy making process. Three working groups were formed that focused on the following areas of the Strategy. As with the previous Strategy, the Parliament took the lead in ensuring that the process of preparing the Strategy is well organized and coordinated. Several joint meetings of the working groups were hosted by Deputy Speaker of the Moldovan Parliament, and took place at the Parliament. The Government representatives were invited to participate in the working groups from the first meetings, as well as the drafts were circulated for Government's approval.

#### *4.13.1.2 Institutionalisation of cooperation*

At the moment there is no focal point for coordination of Government's activities in terms and priorities related to the civil society in Moldova (ECNL 2012, 3). However, the establishment of the Unit responsible for cooperation with civil society is envisaged in the new strategy 2012 – 2015.

#### **4.13.2. Citizens participation in legislative processes**

In 2008 the *Law on transparency in the decision-making process*<sup>27</sup> was passed. It is obligatory for central public authorities and local administration authorities. The law states that the public authorities shall consult the citizens, associations, and other concerned parties about the drafts of legislative and administrative acts that may produce social, economic, environmental impact (on lifestyle, human rights, culture, health and social welfare, local communities, public services). The public authorities are obliged to take necessary measures in order to ensure the possibilities for participation of citizens, associations, and other concerned parties in the decision-making process, including by:

- a) disseminating information about the annual programs (plans) of activity by placing these on official websites;
- b) informing about the organization of the decision-making process as established;
- c) institutionalizing the mechanisms of cooperation and partnership with society;
- d) collecting and examining the recommendations of citizens, associations, and other concerned parties with the purpose to use them in elaborating draft decisions;
- e) consulting the opinion of all stakeholder parties in examining the draft decisions.

The main stages of insuring transparency in the decision-drafting process are:

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<sup>27</sup> <http://www.right2info.org/resources/publications/laws-1/Moldova-Law%20on%20transparency%20in%20the%20decision.doc/view>, accessed in December 2012.

- a) informing the public about the start of the process of elaboration of decision (at least 15 business days before the start of the elaboration);
- b) supplying the draft decision and the materials relating to it to the concerned parties;
- c) consulting the citizens, associations, and other concerned parties (public debates, public hearings, opinion polls, referendum, expert interviewing, and creation of standing or ad-hoc task forces involving civil society representatives; deadline for consultation is set at 15 days maximum with the possibility to prolong it on the case-by-case basis);
- d) examining the recommendations from citizens, associations, and other concerned parties;
- e) updating the public about the decisions adopted.

The public authorities shall elaborate and present to the public annual reports regarding the transparency in the decision-making process, which contains:

- a) the number of decisions adopted by the respective public authorities during the year in question;
- b) the total number of recommendations collected during the decision-making process;
- c) the number of consultative meetings, of public debates, and of public sittings occurred;
- d) the number of cases in which the actions or decisions of public authorities have been contested over the failure to respect the present law and sanctions applied for violation of the present law.

*The National Participation Council* was established in February 2010 as an advisory body and a liaison between the government, civil society, and the private sector. The Council consists of thirty members representing CSOs from various fields whose primary task is i) to participate in policy-making through providing expert opinions on draft policies and strategic documents, as well as conducting and presenting independent assessments of policies' impacts; and ii) to contribute to establishing the institutional framework for consultation that includes among others monitoring implementation of the Law on Transparency in Decision-Making and capacity-building for stakeholders. As such the objectives set up for the Council are quite ambitious (Asipovich 2010, 81).

The National Participation Council developed and approved the strategy for its activities in 2010 - 2012 (the duration of the current mandate) and introduced some changes into the rules of operation. According to the strategy, the Council identified as its priorities i) to offer expertise in drafting, monitoring, and evaluating public policies; and ii) to facilitate involvement of private actors and civil society in decision-making process through establishing four working groups, focusing on justice and human rights; economic development; foreign policy, security, and defence; and social policy, education, and youth (ibid.).

## 4.14 Turkey

### 4.14.1 CSO – Government cooperation

#### 4.14.1.1 Legal and policy documents on mutual cooperation

In Turkey there is no legal or policy document on mutual cooperation of CSOs and the Government. General strategic document (e.g. Long Term Strategy 8th Five Year Development Plan 2001-2005) somewhat mention the need for the development of the sector, but these commitments were never specified or elaborated.

In the scope of the project *Improving Co-operation between NGOs and the public sector* (2005, 2006) a draft memorandum of understanding was prepared, but has never been signed or realised.



#### 4.14.1.2 Institutionalisation of cooperation

There are no concrete Government structures or other institutional mechanisms to facilitate regular contact and coordination with civil society.

#### 4.14.2. Citizens participation in legislative processes

A persisting problem in including CSOs in public policy discussions is the fact that they are not recognised as major stakeholders in public policy making processes. The Turkish legislation lacks a framework to include CSOs in the legislation making process run by the commissions in the Turkish Grand National Assembly (TUSEV 2012: 4).

The incompatibility between the strong state tradition in Turkey and the participatory decision-making mechanism envisaged by the EU integration process continues to pose challenges to the development of government-civil society relations. Turkish government started to acknowledge the importance of the government-civil society dialogue and therefore initiated consultation meetings with participation of CSOs. However, this dialogue and cooperation is still in a nascent stage and the results of this process are yet to be observed (TUSEV 2011: 5).

In spite of the *Regulation on the Procedures and Principles of Legislation Making* (Mevzuat Hazırlama Usul ve Esasları Hakkında Yönetmelik) that makes possible for CSOs to participate in the decision-making process, this participation remains ineffective. This is due to the fact that the regulation is very basic without clear obligations for the ministries or other bodies when drafting the legislation. The regulation only states that the ministry, which proposes a law, **may** publish information about it through the internet, media, etc. If the draft is presented, stakeholders have 30 days to present their opinions. If an opinion is not submitted in this time limit, it is considered that a positive opinion is given. In the absence of concrete mechanisms to facilitate the implementation of this right, CSO participation in policy dialogue and the legislative drafting process takes place infrequently in an *ad hoc* and often uncoordinated manner (TACSO 2011: 12). Furthermore, right to access to information law requests is not standardised.

Although there are some consultations meetings organised by different ministries, CSOs assess that consultation meetings and awareness raising activities organized by the government are not adequate for starting a dialogue between government and civil society organizations. "Dialogue with Civil Society Meetings" organized by Ministry of European Union Affairs play an informative role rather than initiating a dialogue between parties. While large numbers of CSOs participate in these meetings; the efficiency of these large groups and the value added by their participation are unknown (TUSEV, 2011: 5). The same was observed by TACSO: The consultations are made either in a very broad gathering of various civil society organisations regardless of expertise areas (such as the dialogue meetings of the MoEU) or with relatively smaller number of CSOs that are not necessarily experts in the field (KSGM employment commission) (TACSO 2011, 12).



## 5. Comparative country overview

Country	Legal environment (general cooperation (GC) / public participation (PP)	Policy document	Title of the policy document	year	Bodies responsible for implementation of the document	Bodies responsible for cooperation with CSO	Minimum standards of consultation
United Kingdom (England)	no	yes	Compact on relations between Government and the Voluntary and Community organisations	1998	Government through Office of the Third sector, The voluntary and community organisations through Compact Voice, independent body Commission for Compact	The office for the third sector	<i>The Compact:</i> Publishing drafts, 12 weeks of consultation  <i>Code on the practices of consultations:</i> at least 12 weeks, clear feedback
			Compact on relations between Government and the Third sector in England	2009	Government through the Office for Civil Society, The voluntary and community organisations through Compact Voice	The Cabinet Office for Civil Society	
Germany	no	yes	National strategy for civic engagement and participation	2010	N/A	N/A	N/A
France	no	yes	Charter for Civil Society Relations	2001	The National Council for Associative life	The High Commissary on active solidarities against poverty, The national Council for Associative life as an advisory body to the	High number of advisory bodies, no guidance on minimum standards of consultation

						prime minister on CSO related Issues	
<b>Ireland</b>	no	yes	Supporting voluntary activity	2000	Implementation and advisory committee, till 2011 Department of Community, Equality and Gaeltacht Affairs	Until 2011 Department of Community, Equality and Gaeltacht Affairs	no guidance on minimum standards of consultation
<b>Estonia</b>	no	yes	Estonian Civil Society Development Concept	2002	Joint Committee for EKAK implementation (on the basis of action plans for implementation)	Local Government and Regional Affairs Department under the auspices of the Minister of Regional affairs (Ministry of Interior)	<i>Code on good practice on involvement:</i> all administrative agencies, publishing of the drafts
<b>Hungary</b>	Yes – Act CXXXI of 2010 on public participation in developing legislation (PP)	yes	Strategy on Civil society	2002	Department of Civil Relations	Department of Civil relations is responsible for facilitating dialogue with CSOs. In addition, all ministries have special departments for CSO relations responsible for the implementation of the Government-level strategy in their respective fields or at least o contact office for liaising with civic organisations.	<i>Act CXXXI of 2010 on public participation in developing legislation:</i> publishing, general and direct consultations, sufficient time, strategic partnerships
			Resolution on provisions serving the development of Government – Civil Society Relations	2007	Line ministries, the overall coordination of policy development and implementation remained with the Ministry of Social Affairs and Labour		
				2010	Department for Civil Relations under the Ministry of Human Resources		
<b>Latvia</b>	no	yes	Cooperation memorandum between non-governmental organisations and the Cabinet of ministers	2005	The Council for Implementation of the Cooperation memorandum between non-governmental organisations and the Cabinet of ministers	The same as for the implementation of the policy documents	N/A - guidance on minimum standards of consultation; basic rules in the memorandum, but only affecting NGOs, not the general public
			The national program Strengthening of civil society	2005	Until 2008 the National program was administered by the Ministry of Special Assignment for Social Integration, but as of February 2009 it is		

					administered by the Ministry for Children and family Affairs		
			Declaration of development of civil society in Latvia and cooperation with CSOs	2007	State Chancellery		
<b>Poland</b>	Yes – Act on lobbying, Rules of procedure of the council of ministers (PP)	yes	Strategy of support for the development of civil society for the years 2007 - 2013	2007	Ministry of social affairs	Department of public benefit activity (Ministry of labour and social affairs) is responsible for establishing institutional and legal conditions that promote development of the NGO sector. The department also provides administrative and official services to the Council of Public benefit activities.	<i>Act on lobbying, Rules of procedure of the council of ministers – publishing draft documents; no guidance on timeline and feedback</i>
			Strategy of support for the development of civil society for the years 2009 - 2015	2009			
<b>Croatia</b>	no	yes	Program for Cooperation between the Government of RC and the non-governmental, non-profit sector in the Republic of Croatia	2001	The Government Office for cooperation with NGOs; The Council for the development of Civil Society	The Government Office for cooperation with NGOs is a liaison office for the institutional connections with the non-profit sector.	<i>The code for consultations with the interested public in procedures of adopting laws, regulations and other legal acts – publishing drafts, deadline not shorter than 15 days, obligation of feedback</i>
			National Strategy for the Creation of Enabling environment for civil society development for 2006 - 2011	2006			
			National Strategy for the Creation of Enabling environment for civil society development for 2012 - 2016	2012			
<b>Montenegro</b>	Yes (GC, PP) – Regulation on the manner and procedure of cooperation	yes	Strategy for Cooperation between the Government and NGOs	2009	Council for cooperation with NGOs	Government's office for cooperation with NGOs is a liaison office for the institutional	<i>Regulation on procedures and methods of public consultations in preparation</i>

	of Government agencies and NGOs, Regulation on procedures and methods of public consultations in preparation of legislation					connections with the non-profit sector.	<i>of legislation</i> – publishing drafts, deadline not shorter than 20 days, obligation of feedback report
<b>Australia</b>	no	yes	National compact	2010	The Not-for-profit sector reform council	The office for the not-for-profit sector (in the department of the prime minister)	<i>Best practice regulation handbook</i> – publishing drafts, sufficient time, feedback
<b>Canada</b>	No	yes	Accord between the Government of Canada and the Voluntary Sector	2001	Regular meetings between ministries and voluntary organisations	Department of Canadian heritage	<i>Code of good practice on policy dialogue</i> – publishing drafts, no commitments regarding deadlines
<b>Moldova</b>	Yes (PP) – Law on transparency in decision-making	yes	Concept of Cooperation between the parliament and civil society	2005	N/A	No focal point at the moment, the establishment of the Unit responsible for cooperation with civil society envisaged in the strategy 2012 - 2015	<i>Law on transparency in decision-making</i> – publishing drafts, deadline not shorter than 15 days, obligation of feedback
			Civil Society Development Strategy for 2008 - 2011	2008	N/A		
			Civil Society Development Strategy for	2012	N/A		
<b>Turkey</b>	Yes (PP) – Regulation on the Procedures and principles of Legislation making	no	/	/	/	There is no focal point	<i>Regulation on the Procedures and principles of Legislation making</i> – facultative publishing, deadline 30 days

## 6. CSO Mechanisms for effective cooperation with the Government

### 6.1 Criteria and procedures for selection of CSO representatives in cross-sector bodies<sup>28</sup>

CSO participation in different cross-sector working and advisory bodies is one of the mechanism of CSO participation in decision-making process. Bodies that include CSO representatives can be established on an ad hoc basis (e.g. for drafting of the specific law) or long-term (ministerial advisory body for consumer protection issues, council for development of CSO, etc.). These bodies include limited number of participants and consequently the number of CSO representatives is limited as well.

The role of CSO representatives in these bodies can be different. They can have a *representative* function, when they represent their own organization or a network (either crosssectoral, nation-wide alliance, or network on particular issue - for example, network of women's rights organizations). CSOs can also have an *experts' role*. In these cases, while they may be selected because of the organizations or networks they represent, the main factor and criteria will focus on particular expertise that CSOs or the individuals possess in a specific area which is a competence of the body (Nuredinoska 2011: 6). In our opinion, special procedure and criteria for representativeness should be considered only when we have in mind the representative function. While expert indeed come from the CSOs, they do not represent the CSO sector as such, but they act as individual persons.

The examples from Europe show that the design of the process depends on *who organizes the selection* and *who appoints the members* (whether the government or the CSOs), and *how much discretion is required by the government to make a final decision*. The following models have been identified on the basis of the examples:

1. CSOs select their representatives based on a procedure prescribed in a law or regulation, or criteria determined by the state body;
2. CSOs select their representatives based on their own procedure;
3. The government body organizes the process and selects the CSOs (with or without clear rules);
4. The state body cooperates with the CSOs in the procedure and selection process (Nuredinoska 2011: 8)

#### 6.1.1 Bulgaria: The Civic e-Governance Platform, BlueLink

The Civic e-Governance Platform is an Internet-based platform for election of representatives of CSOs in working groups and committees at state institutions. It concerns only environmental and sustainable development policies elaboration and implementation in Bulgaria. The Civic e-Governance Platform aims to facilitate (1) selection of organizations through nomination of candidates and voting, and (2) information sharing on the participation of the selected members in the working groups, thorough their reports.

##### 1) Procedure for selecting members

###### *Preregistration of organizations*

In order to take part in the process organizations have to register in the on-line system. BlueLink developed a *Procedure for Election of Environmental CSO Representatives*. BlueLink maintains a list of organizations registered to vote and list of representatives selected in different government bodies.

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<sup>28</sup> This chapter is mostly based on the Nuredinoska's and Evans Hadzi-Miceva's publication: "Criteria and procedures for selection of civil society organisations in cross-sector bodies", Skopje: OSCE, 2011.

A right to register for voting and participate in the platform is granted to every organization, which is registered in accordance with the Law on Non-for-Profit Legal Persons and works in areas such as: environmental issues, nature protection, and sustainable development. In order to register the organization must provide the following documents:

1. Court decision on registration or re-registration according the Law on Nonfor-Profit Legal Persons;
2. Certificate issued by the court that contains the latest information on the CSO from the court registry (which must be resubmitted every 2 years);
3. A letter expressing the desire of the organization to participate in the selection process signed by the official representative of an authorized person or organization;
4. A brief description of the organization on issues of conservation, environment and sustainable development.

Further details regarding the registration and the right to vote are regulated with the internal rules.

The elections are coordinated by BlueLink and the procedure commences upon request of the state body or other organization.

### *Nomination*

According to the Procedure, each organization registered to participate in the elections may nominate only 1 nominee for 1 position, based on prior cooperation with the candidate. Nominations are sent to ECO via e-mail, fax or postal service during the nomination period, which is 12 days from the announcement of the call.

The nomination letter should contain:

1. the name of the candidate;
2. declaration of the organization which nominated him or her(format available on the web site);
3. the nominee's CV (in standard format available on the web site);
4. a motivation letter from the candidate (format available on the web site).

ECO must distribute the list of nominations within 5 days from the date when the call for nominations closes.

### *Voting*

Voting is conducted within the period of at least 10 working days, and registered organizations may vote by email, fax or postal mail during the voting period. They can only vote for one candidate. The candidate which will receive the majority of the votes will be selected as representative. The candidate with the second largest number of votes is the first deputy, and the candidate with the third largest number of votes is the second deputy. In case candidates for one position have an equal number of votes, a runoff election is held. Election results are announced through BlueLink's distributes the results within days after the voting deadline. Anyone may view the election documentation in the ECO office three days after the voting deadline.

### *Rights and obligations*

The Procedure lists specific rights and obligations for the selected representatives. For example, the selected representative is entitled to receive adequate information from the responsible institution, it can delegate some responsibilities to its deputies and to resign from its position (but has to stay until a new person is selected). The representatives have the following obligations: (1) to present and to defend the position of the CSO in the institutional body for which he or she was elected, (2) to participate in the meetings of the institutional body; (3) to disseminate information through BlueLink Information Network about the progress and results of the institutional body's work; (4) to solicit the views of the CSO community regarding relevant issues prior to the working meetings.

## **2) Criteria for selecting members**

The following criteria are considered when selecting members:

1. The representatives should have at least 1 year of experience at an environmental CSO;
2. This experience should be in the last 3 years;

3. The representative's education and the experience should relate specifically to the requirements of the institutional body, if applicable;
4. The candidate should provide the motivation letter demonstrating the nominee readiness to be a CSO representative.

The selected candidates represent the environmental community for a period of two years and may not be elected to two or more institutional bodies concurrently. They may resign or be recalled from the position with majority of votes or in case the body for which it is selected ends its mandate. (Nuredinoska 2011: 11)

### **6.1.2. Croatia: The Council for Civil Society Development and the National Volunteering Board**

Croatia features several examples of selection of CSOs. First, the *Code of Practice on Consultation with the Interested Public in Procedures of Adopting Laws, Other Regulations and Acts* stipulates that when members of expert working groups are appointed from the ranks of the representatives of the interested public, account should be taken of criteria such as: expertise, previous public contributions to the subject-matter in question, and other qualifications relevant to the matters regulated by the law or other regulation, or established by the act of the state administration body. Second, the Government Office for NGOs maintains an online database of state bodies where organizations have own representatives including the names of those representatives in the body: <http://www.uzuvrh.hr/drzavnatijela-savjeti-clanovi.aspx> (ibid.). In 2011, there were more than 700 CSO representative present in different cross-sector bodies (USAID 2012: 62).

#### **A. Selection of CSO representatives in the Council for Development of Civil Society**

The Council is composed of 27 members, specifically:

- ☐ 12 representatives of associations and other organizations of civil society;
- ☐ 12 representatives of state institutions;
- ☐ 1 representative of trade unions;
- ☐ 1 representative of employers association;
- ☐ 1 representative of Foundation.

The subsectors for which associations and other organization of civil society may be elected are:

- (1) Promotion and protection of human rights;
- (2) Protection of health and improvement of the quality of life;
- (3) Disabled persons care;
- (4) Child care;
- (5) Protection of environment and sustainable development;
- (6) Social welfare
- (7) Youth activism;
- (8) Democracy, Rule of Law and Education;
- (9) Culture;
- (10) Organizations involved in homeland and veteran care,
- (11) Sports
- (12) Technical Culture.

#### **1) Appointment of members**

The Government appoints the members and their deputies based on suggestion from the:

1. Associations, for the 12 participants from the enlisted fields of activities;
2. Government office for NGOs, for representatives from the trade unions, employers association and foundations; and
3. Government bodies, for representatives from the ministries and different government offices.

Members are appointed for three years.

## **2) Procedure for selection of the members from the civil society**

The members of the Council are selected through a two steps system: (1) nomination of members and (2) voting for members.

### *Nomination for members and their deputies:*

The Government Office for NGOs announces on their internet page and other newsletters the call for nominations of candidates, the criteria and deadlines. Any registered CSO or network of CSOs can nominate a candidate and a deputy for the particular subsector or area of activities in which they are active, and they can nominate only one person. The candidacy process is open at least 15 days. Nominations are sent to the Government's Office for NGOs. The nominations should be submitted on a standardized form and supported by the following documents:

1. letter of motivation of the candidate including information how the candidate will keep its sub-sector informed about the activities in case of appointment to the Council;
2. curriculum vitae of the candidate submitted on standardized form;
3. copy of last registration certificate of the organization or other organizations that nominate the candidate (or any changes submitted to the register) or notice from the register not older than 30 days;
4. confirmation on active involvement of the candidate (professionally or as volunteer) in the fields of activities (in the association or other organization) for which the person is nominated sub-sector for at least 3 years of continuous involvement, signed by the legal representative of the CSO or other organization of civil society.

An independent Commission selected by the current Council members, reviews the nominations and checks the eligibility of the Candidate within 8 days from the end of the deadline for nominations. The list of candidates with valid nominations is published on the Internet and applicants have 8 days deadline to appeal in case their nomination has been considered invalid.

### *Voting for members:*

The voting procedure lasts 15 days. Every registered association or network has one vote for the candidate and its deputy and they may vote only for the fields of activities in which they are active. Voting is completed on a standard form, which can be downloaded from the internet page of the Government Office for NGOs and the form should be sent via post the Government Office for NGOs. The form should be stamped, signed by CSO representative. An independent Commission counts the votes and prepares the list of elected candidates according to the sub-sectors within 8 days from the deadline of submission of votes. The Government Office for NGOs then publishes on its internet page two lists (1) list of candidates and deputies who have won the biggest number of votes in the specific field and will be appointed as members of the Council and (2) list of all other candidates and deputies with number of votes they have received. The proposed list of candidates and deputies is submitted to the Government in order to appoint those members.

## **3) Criteria for selection of members from civil society:**

Candidates must comply with the following criteria:

1. To be of a legal age;
2. Not to be member of political party;
3. At least 3 years of working experience in the field of activities of the associations or other organizations of civil society which the person will represent.

## **B. Selection of members in the National Board on Volunteering**

The National Board on Volunteering is an advisory and consultative body of the Government of Croatia which is responsible to implement measures for promotion and protection of volunteering. The Board is composed of 19 members:



- 1 representative of the Ministry of family, veterans affairs and intergenerational solidarity;
- 1 from the Government Office for NGOs,
- 1 representative of the Government Office of Human Rights,
- 1 representative of the National Foundation for Civil Society,
- 1 representative of the central government body responsible for education,
- 1 representative of the Ministry of Health and Welfare,
- 7 representatives of civil society organizations that organize volunteering,
- 6 independent experts who are engaged in volunteering and civil society as follows: three representatives based on the proposal of the CSOs and three representatives based on the proposal of local and district (regional) governments.

The members are selected for period of 2 years with a right to be re-elected. *The Decision on the Criteria and Procedure for Selection of Representatives in the National Board on Volunteering (2007)* further describes the process of the selection.

### **1) Appointment of members**

The members are appointed by the Government based on recommendation of the Ministry.

### **2) Procedure for selection of members of the Board from the civil society**

The selection of representatives of civil society who represent organizers of volunteering is conducted through the Ministry of Family, Veterans and Intergenerational Solidarity. The Ministry will invite federations, coordination and networks of associations whose members are organizing volunteers to nominate 1 candidate who meets the criteria.

The applications should include:

1. An explanation of the reasons for nominating a candidate;
2. Candidate's CV
3. Confirmation of the number of years of active work by civil society, certified by a responsible person in the association.

The selection of representatives the proposal of civil society organizations from the ranks of independent experts who are engaged in volunteerism and civil society, is also conducted upon invitation of the Ministry issued to organizations and networks that can nominate a candidate who meets the criteria. The application should include:

(1) an explanation with the reasons for nominating a candidate and (2) the candidate's CV. Nominations should be submitted within 15 days from the receipt of the call. A Commission for selection of members in the Board is set up to review the nominations, which recommends the persons who should be taking part in the Board. Based on this recommendation the Ministry submits the list to the Government which appoints the members.

### **3) Criteria for selection of representatives from civil society**

The Decision lists the following criteria for members of the organizations which are *volunteer organizers*:

1. The person must be of legal age (an adult citizen) of Croatia;
2. It is not an official political party representative;
3. To continuously for at least 3 years be an active member of civil society organization that promotes and develops volunteering:
  - a) through education of associations and volunteers;
  - b) by connecting, monitoring and supporting volunteers;
  - c) through intensive work on sensitizing the public and changing attitudes about volunteering through promotional activities, humanitarian actions and other;
  - d) by encouraging the public (citizens) to activism, involvement and participation in voluntary activities;
  - e) by keeping record and database of volunteers and volunteer activities;
  - f) through cooperation with local governments to promote volunteering;

g) through cooperation with international volunteer organizations.

The following criteria are listed for the expert members *recommended by the CSOs and the regional/local government*:

1. It is not an official political party representative;
  2. It is an independent expert who has been active in the field of volunteering and civil society in a period of at least three (3) years, specifically:
    - a) a member of the academic community who is engaged in this area through scientific research; or
    - b) an expert in the field of social services involved in the projects of civil society organizations that promote volunteering; or
    - c) other areas in which the person has contributed to the promotion of volunteerism and cooperation with CSOs.
- (ibid.)

### **6.1.3 Poland: Selection of members to the Council of Public Benefit Activity**

The Council of Public Benefit Activity was created by the Law on Public Benefit Activity and Volunteering in 2003 (amended in 2009 and 2010). The Council is an advisory body to the minister responsible for social security matters. It has twenty members – 10 representatives of CSOs and their unions, and other entities listed in the law and ten of public authorities (5 of local governments and 5 of central administration bodies). The Council is co-chaired by one representative of the authorities and one of the CSOs included in the Council's work.

#### **1) Procedure for selection of members of the civil sector**

The process is as follows: the Minister responsible for social security, announces in two daily newspapers nationwide, and places on the websites of its office, information on inviting organizations to nominate candidates for to serve as Council's members. The notice contains information on the call, content of the application and date and place for submission of the application. The application should contain the following information:

1. Description of the work and justification for participation of the CSO representative in the Council, the CSO relationship and understanding of the work of the council;
2. The candidate's application, which states his qualifications to perform the tasks which will be useful as member of the Council;
3. Statement of the candidate to consent to the candidacy;
4. Statement of no criminal convictions for intentional crimes;
5. Extract from the National Court Register, and other evidence of the nature and scope of the CSO operations.

Each candidate must be supported by at least 20 CSOs. The Minister appoints the representative from among the list of candidates nominated by the organizations.

#### **2) Criteria and appointment**

The application process is regulated by the Law and the Regulation of the work of the Council. All members of the Council are appointed by the Minister for a 3 year period. In terms of CSO, the Minister must make a decision based on the list of nominations for candidates however there are no criteria based on which the Minister will decide which organization to appoint.

### **6.1.4 Serbia: Monitoring and Evaluation of the Poverty Reduction Strategy Serbia**

The work of the Civil Society Focal Points and Programme Management Unit of the Government of Serbia Poverty Reduction Strategy are evaluated by the Monitoring and Evaluation Team. Evaluation targets results of the focal points and the unit after six (6) and twelve (12) months. The evaluation of

achieved results shall contain recommendations on whether conditions have been fulfilled for the continuation of the program.

### Criteria and Procedure

Eligible candidates can be all interested individuals with experience in the field of monitoring and evaluation and in the implementation of poverty reduction programmes aiming at vulnerable groups, as well as the knowledge of civil society in Serbia. The criteria are evaluated as follows.

Criteria		Max.points
1.	Previous experience of the candidate in the field of monitoring and evaluation	30
2.	Previous experience in the realization of poverty reduction programmes	20
3.	Research experience	30
4.	Experience in work with vulnerable groups	20
5.	Experience of working in the NGO sector	20
6.	Recommendations of previous employers and/or partners	20
Overall		140

Applicants shall submit their CV, cover letter and two recommendations of previous employers. Best ranked candidates are invited for an interview as a basis for the final decision. (ibid.)

### 6.1.5 Montenegro: procedure for selection of CSO representatives in working and other cross-sector bodies

The procedure for CSO representatives selection is prescribed by the *Regulation on the manner and procedure of cooperation of government agencies and non-governmental organisations*.

#### Nominations

The procedure is started by the publishing of the public call of the state body convening the working group on its web page (number of CSO representatives, conditions for CSOs to participate, needed documentation). The deadline for applications is 8 days. Each CSO can nominate only 1 candidate. CSO can nominate a candidate if:

- it's registered before the publication of the public call,
- has activities or respective field of work needed for the working body written in its statute,
- it realized at least 1 project from the working body's field of activity in the previous year,
- submitted tax report to the tax office for the previous year,
- more than a half of the managing board is consisted of members that are not members of organs in political party, public officials or senior civil servants.

A candidate can be a person, who:

- is a citizen of Montenegro with residency in Montenegro,
- has experience from the working body's field of activity,
- is not a member of organs in political party, public official or senior civil servant.

CSO nominating a candidate has to submit:

- a copy of the registry documents,
- a copy of the foundation act and statute,
- a list of realised projects and activities from the working body's field of activity in the previous year,
- copy of the receipt for the paid taxes,
- a statement from the CSO's responsible person about the composition of the managing board.

The state administration body publishes a list of candidates on its web page together with the CSOs that nominated them.

### **Appointment**

The responsible person of the state administration body appoints the candidate who had the most nominations.

## **6.1.6 Slovenia: Rules of Procedure for Selection of CSO representatives developed by CNVOS**

The procedure for selection of civil society representatives in different Government bodies was first developed in 2002 and further enhanced in 2004. Usually the procedure is run by the Centre for Information Service, Co-operation and Development of NGOs (CNVOS), however the procedure can be run by any CSO network or individual CSO. The aim of the Rules of the Procedure for Selection of CSO Representatives is to offer an unified procedure with clear rules, binding for all involved and according to principles of openness, equal opportunities and transparency.

CNVOS or other CSO network acts as the leader of the process that facilitates the selection of the representatives and provides technical assistance. CSO network acts upon request of a specific Government body which needs to select representatives of the sector to take part in different cross sector bodies (e.g., commission, working body etc).

### **1) Procedure for selection**

The process is led by a CSO network's employee authorized by the director, who together with two other members forms a selection commission for the specific process. The CSOs can also name a member of the commission, who can take part in examination of received application and later in counting of votes.

#### *Nominations*

As a first step of the process, CSO network issues a call for (1) nomination of the candidates and (2) registration of CSOs who want to vote in the specific procedure. The collection of applications must not be shorter than 15 days. After the deadline passes, the commission develops a list of candidates and registered organizations who will vote. In case of incomplete applications, candidates are given 3 days to complete the submission; in case they fail to do so their application is not considered.

#### *Presentation meeting*

While this step of the process was not practiced frequently at the early days of the procedure it showed to be efficient and therefore it became a regular part of it. Namely, after the candidates are nominated the organizers call a presentation meeting where the candidates and the organizations that nominated them meet, and try to reach an agreement as to who from them should be selected. Only in case they cannot make an agreement, the procedure of voting commences.

#### *Voting*

The commission adopts the decree about the list of candidates and voters and posts it on the web site for 8 days, after which elections are called. Each registered voter receives one vote which can be submitted in person, by post, fax or e-mail. The opening of the ballot box is conducted in public and all actors are invited. The representative is selected within 3 days from the end of the elections. If the first two candidates receive the same number of votes and there is just one place in a certain body, a second round of voting follows.

#### *Rights and Obligations*

The regulation prescribes certain rights and obligations for the selected representatives. Those include the right to coverage of per diem and travel costs. CSO representatives should be transparent in their

work; they have to report to the CSOs (CNVOS receives report and sends it to all interested organizations which participate in the procedure, puts the information in weekly information package and on the website); the selected representatives have to take into account the CSOs proposals and suggestions in the course of the activities in the bodies.

## **2) Criteria for selection of members**

The government body that makes the request determines the criteria for representatives in the specific selection process. They submit them on prescribed form which should include the following information: expected knowledge of the representative and other criteria that the person should satisfy, description of the activity in which the person will be involved, conditions for the procedure to be successful, type of voting etc.

From 2003 onwards CNVOS and other CSO networks carried out app. 50 procedures for the selection of CSO representatives.

## **6.2 Tools for open and transparent coordination of joint CSO positions**

Usually CSOs are more successful when advocating for their cause in the decision-making process if they act together. Since CSO sector is very heterogenic coordination process can be a lengthy procedure. The CSO leading the process (the coordinator) needs to have in mind everything that CSOs are usually advocating for in regards to the minimum standards of consultations. The process should be open, transparent and it should allow enough time to CSOs to study the materials and prepare their comments. The whole process should be based on the principle of the participative democracy: broad opportunity to participate, decisions are made with those participating.

Methods of collecting comments, views:

- consultation meetings,
- focus groups,
- e-forums and other e-participation tools (e.g. possibility to comment drafts in a form of amendments),
- web-streaming of meetings, etc.

Good example of the use of e-participation tools are Climate consultations (<http://www.slovenija-co2.si/>) that were implemented in Slovenia during 2011: Slovenian organisations Institute for electronic Participation, Focus Association for Sustainable Development and Regional Environmental Centre for Central and Eastern Europe were winners of public procurement call under Communicating about EU and EU related matters programme. They established On-line platform enabling interactive support to public consultations on climate and energy policy targets of Slovenia until 2020 with facilitated on-line forum, on-line chat room, video broadcast, Facebook etc. They produced 6 consultation reports and 6 policy recommendations for decision makers. Consultations on different climate topics were two-fold: live public debates with web streaming and e-consultations (Divjak 2012: 27).

## **6.3 Monitoring of implementation of Government policies and legal acts**

Monitoring of the implementation of policies and legal act is one of the crucial steps for ensuring successful implementation. Monitoring can be carried out by the Government itself or by CSOs, which can use the results also for their advocacy efforts.

For example, *Mirror to the Government* in Slovenia is a project of measuring the level of participation of civil society. The project presented an in-depth analysis of selected government acts. It assessed

cooperation of public authorities (ministries and government offices) with a set of detailed indicators, which were measuring: general mechanisms of inclusion of the civil society, enabling environment and the procedure of preparation of legal acts. The section on the procedure included questions about: timing and methods of informing about the launch of the process, availability of background material, clarity and visibility of procedure, organisation of meetings for interested publics, provision of feedback etc. The same monitoring principles are being applied in Macedonia (<http://www.ogledalonavladata.mk/>) or in Montenegro (see above).

Monitoring can also be done on a very concrete issue, for example for following the deadlines for public consultations. For example, in Slovenia the minimum deadline is set in the Resolution of legislative regulation and Government's Rules of procedure is 30 – 60 days. CNVOS is regularly monitoring the breaches of these deadlines (<http://www.civilni-dialog.net/stevec2012/>).

## 7. Outputs from local consultation meetings in Turkey

Local consultations were held in 4 Turkish cities: Van (October 18<sup>th</sup>, 2012), Istanbul (November 1<sup>st</sup>, 2012), Trabzon (November 13<sup>th</sup>, 2012), Izmir (November, 2012).

Participants were asked about their (positive and negative) experience in Civil Society – Public Sector dialogue, their expectations from cooperation with the public sector and their recommendations to further CSO – Public sector dialogue.

As to experiences of CSO representatives with CSO – Government cooperation the participants pointed out some examples of good practices, while the general agreement was that Turkey lacks framework for cooperation that would define basic principles and mechanisms for stable long-term cooperation.

In order to present the outputs from local consultations in the most coherent way possible, we are following the division from country overview.

### **CSO – Government cooperation**

#### Positive experiences:

- Regarding engaging in dialogue and cooperation with CSOs, the government was fostered by international events and documents, such as Rio conference in 1991 or the Habitat conference in 1996 in realizing the need to include CSOs as legitimate stakeholders in decision making processes
- The Government recognized the value of CSOs after the 1999 earthquake when CSOs were able to handle disaster management better than the Government;
- On national level, there are mechanisms which operate under the Turkish Grand National Assembly, such as the Equality of Women and Men in Access to Opportunities Commission to which CSOs can deliver their opinions. There have also been some positive attempts by the government in incorporating disability rights NGOs to the drafting process of the “Disability Law” which was adopted in 2005. During the preparation and adoption of the “Soil Protection Law”, an NGO which works extensively on environmental issues (specifically erosion) was made a part of the law drafting process. Also, women rights NGOs were an active part of the drafting and adoption process of the Law on Prevention of Violence against Women and the Protection of the Family.
- The Local Equality Action Plans which are initiated with the cooperation of the Ministry of Interior and the United Nations Development Programme aimed to implement the principle of gender inequality in all levels of local policy making. In some pilot cities where the plan was implemented, women rights CSOs were incorporated into local decision making mechanisms and in some others institutional mechanisms to monitor the city budget from a gender perspective was formed.
- Although city councils are not very efficient enough, in some cities they have proved to be effective mechanisms for CSOs to voice their concerns regarding local policy making.
- 

#### Negative experiences:

- The Government does not have a holistic policy with regards to CSO participation. Transparent and accountable criteria regarding the selection of CSOs to be included in dialogue and cooperation are absent. Therefore, during local consultation meetings CSOs often expressed concerns that CSOs which criticize the government are not included in consultation processes.

- CSOs have expressed concerns that they are not recognized as an equal partner and legitimate stakeholders, but rather as an inferior actor.
- CSOs often complain that the consultation and dialogue processes that they start with public institutions are often interrupted or altered when the interlocutor person changes, retires or starts working for another public office. This is due to the fact that there is no concrete government mechanism which regulates CSO-public sector dialogue, and CSO-public sector relations are often regulated through personal means rather than institutional mechanisms.
- Even when CSOs are incorporated into decision making processes, they are deprived of sufficient or any feedback regarding their input into the process. CSOs demand more transparency in consultation processes.

#### Expectations/Recommendations:

- CSOs should be recognized as equal partner;
- The public sector should approach all CSOs on an objective and ideology-free ground. The independence of CSOs should be guaranteed by the public sector's equal treatment for all CSOs;
- The public sector- civil society cooperation, its mission and liabilities, should be identified;
- Public sector and CSOs should be brought together to build their communication and cooperation channels.

### **Citizens participation in the legislative processes**

#### Positive experiences:

- The protection of the Family and Anti-violence Legislation against women was passed in joint collaboration of the Government and CSOs.

#### Negative experiences:

- The decision-making process is not transparent, it is not clear what happens with the draft legislation and received comments (there is no feedback reports);
- When legislation is passed, often it is not being implemented.

#### Expectations/Recommendations:

- Public institutions should regard civil society organizations as an equal stakeholder during the implementation and monitoring of existing legislation;
- Consultation mechanisms should be in place during policy formation and decision-making;
- Reporting activities that aim at identifying and providing solutions for problems that arise during law application processes, should be increased;
- It should be ensured that public workers who work on relevant legislation and rules have full knowledge about them. CSOs should be informed about changes in legislation;
- Public sector should create awareness about the importance of CSOs and their work areas through education;
- Commissions within the Parliament should share information regarding all stages of legislation making with CSOs through the formation of e-groups.

The participants also proposed some recommendations for improvement of CSOs' advocacy efforts:

- capacity building (workshops, seminars, publications) is needed to improve CSOs' advocacy skills and their knowledge about the decision-making cycle and points of influence;
- CSOs should not only focus on advocacy, but also on monitoring. They should develop mechanisms regarding monitoring and auditing the activities of public institutions;



- CSOs should meet more often to discuss the political context in Turkey and invest more time and effort in developing effective strategies to communicate their demands to public institutions;
- CSOs should engage more into lobbying activities to have an affect both on bureaucratic and legislative processes. *The Regulation on the Methods and Principles of Preparing Legislation* should be prioritized in the agendas of CSOs.

To sum up, although participants of local consultations focused more on citizens participation in the decision-making process, we can draw some conclusions for both elements of Government – CSO cooperation. First of all, basic framework for CSO – Government dialogue is needed to assure basic principles, mechanisms for interaction on one hand and to assure equal access and treatment of all CSOs. Minimum standards of public consultations should be established to assure participation in all stages of decision-making (from developing the idea through drafting and passing the legislation to its implementation). Quite some emphasis was also put on capacity building, not only for CSOs, but also for public officials that work with CSOs or are involved in the decision-making process.

## 8. Good examples of CSO – Government cooperation

The following list summarizes good practices that were detected in the country overview:

- **Broad involvement and consultation with CSOs when drafting policy document on the development of the sector** (UK: 20.000 community organisations involved in postal consultations, Ireland: 300 questionnaires sent out, establishment of expert committees, Latvia: meetings between several (20 – 60) CSOs and the prime minister, Croatia: cross-sector working groups, long consultation, inclusion of CSOs on two big CSO events, Australia: consultation through discussion paper, expert meetings, workshops, online survey, Canada: consultations through 12 umbrella organisations)
- **Policy documents are passed by the parliament** in order to achieve higher political value, and to avoid negative aspects of the changes in Government (Estonia, Moldova)
- **Clear action plan (responsible bodies, activities, deadlines, indicators) for the implementation of the policy document prepared** (Croatia: action plan is part of the strategy, Estonia: action plans were created after the policy document, every couple of years there is a new action plan, Hungary: each ministry had to prepare an action plan for its respective field on the basis of the Resolution on Provisions serving the Development of Government-Civil relations, Moldova: action plan is part of the 2012 – 2015 strategy)
- **There is regular monitoring and evaluation of the implementation of the policy document taking place** (UK: annual review meetings, several evaluations commissioned, Croatia: constant monitoring of achievements/fulfilled measures is done by the Office for cooperation with NGOs, Latvia: evaluation and improvement is done by the Council for Implementation of the Cooperation memorandum between Non-Governmental organisations and the Cabinet of Ministers)
- **Continuation of policy documents is ensured** (UK: the 1998 Compact was renewed in 2009, Estonia: the EKAK stayed the same, but action plans are passed every three years, Croatia: after 2006 – 2011 strategy in 2012 the 2012 – 2016 strategy was passed, Moldova: after 2008 – 2011 strategy the 2012 - 2015 strategy was passed)
- **Policy documents are supported by different codes of practice** (UK: the 1998 compact was supported by five Codes of good practice – on funding and procurement, volunteering, consultation and policy appraisal, community groups, and black and minority ethnic voluntary and community organisations, Estonia: Code of good practice on involvement, Code of good practice on public service delivery, Code of good practice on funding, Croatia: Code of good practice, standards and benchmarks for the allocation of funding for programmes and projects of NGOs, Code for consultations with the interested public in the procedures of adopting laws, regulations and other legal acts, Canada: Code of good practice on funding, Code of good practice on Policy dialogue)
- **There is a governmental focal point responsible for cooperation with CSOs and coordination of CSO development across state administration bodies** (UK, France, Hungary, Poland, Croatia, Australia, Canada, somewhat Montenegro)
- **There are clear guidance on citizens participation in decision-making process**, either in policy document or in legally binding act (Croatia, Montenegro, Australia, Moldova, Estonia, somewhat Hungary and UK)

- **There are cross-sector advisory bodies discussing the development of the CSO sector** (Poland, Croatia, Montenegro, somewhat Ireland, Latvia and Australia)
- **CSO monitoring of implementation of Government's policies is continuously carried out** (Estonia, Montenegro, Slovenia, Macedonia)

## 9. Recommendations

Recommendations are based on experiences from other countries as well as the situation in Turkey. Recommendations are divided into three groups: policy documents on cooperation, bodies that support the cooperation and development of CSOs and citizens participation in legislative process.

### 9.1 Policy documents on cooperation - recommendations

In chapter 3 we already distinguished between unilateral and bilateral documents. Bilateral documents are agreements that usually contain commitments of the Government and CSOs, while unilateral documents (strategies) can contain commitments only for the administrative bodies (government, ministries, agencies, etc.). Content-wise both types can be very clear and specific and on the other hand, both types can be very general.

Recommendations for effective policy document on cooperation:

- **type of the document** – experiences from other countries show that there is no recipe for success regarding the type of the document. Some decision-makers are more in favour of bilateral documents; others are more in favour of strategies. When there is no existing cooperation, a good starting point could be a mutual agreement that would set basic principles of cooperation and institutional mechanisms of cooperation. In short, the agreement could define a process how to develop a more specified document (strategy), establish bodies to support cooperation, etc.
- **legal nature and body that confirms the document** – the general opinion is the legal nature of the document is very important for implementation. However, majority of documents on cooperation is not legally binding. Furthermore, experiences show that legal nature is not the key issue for success. On the other hand, experiences also show that changes in the Government can hinder the process of drafting or implementation severely. This is the reason why Estonian EKAK is usually put as an example of not legally binding document, which has a high political value, since it was passed by the parliament. The same good example is Moldova.
- **drafting process** – the document should be drafted in a very participatory manner. Firstly, drafting process sets a basis for future cooperation and is therefore very important for both sides to get to know each other. Secondly, with open, transparent and inclusive process both sides get ownership of the document and responsibility for its implementation. Thirdly, to avoid negative aspects of the changes in the Government, it is useful to include coalition and opposition political parties (examples of Estonia and Moldova). Drafting of the last Croatian strategy is also a good example of involving all sides: they started with basic broad consultations, different cross-sector working groups prepared drafts and at the end they organised broad consultations again.
- **content** - a part of the general principles that underpin the document, it is very important to include clear commitments as well. It is also very useful to have issues of implementation in mind from the very early stages of drafting – keep goals and activities realistic, divide tasks and responsibilities (see Chapter 3 for description of usual elements of the documents).
- **implementation** – in order to assure implementation of the document, include an action plan with clear goals, activities, responsible bodies, deadlines and needed resources. If the Government will not assure minimum funding for the implementation of the document, its success will be rather questionable. It is useful to identify other (additional) sources of funding as well. To assure monitoring and evaluation of implementation it is useful to appoint either

governmental body or cross-sector body (advisory council) for this task. Funding should be assured for monitoring and evaluation activities as well.

## **9.2 Institutional support for cooperation**

### **9.2.1 Bodies that support cooperation**

Bodies that support cooperation and development of CSOs can be established before policy document exists (example of Croatia) – the two processes are not directly linked. The offices for cooperation between the state and CSOs can play an important role in cultivating and advancing cooperation. They should be recognized as mechanism, which can contribute not only to communication and exchange of information, but a vehicle for participation, education of the two sectors, and leader of the broader policy aspects which are embraced in the collaboration (Hadzi-Miceva 2009: 11).

There are different types of support bodies. They can be established in the scope of the Government's secretariat or in the scope of some ministry or they can be an independent agency. All possibilities have positive and negative aspects. In either case when proposing such an office one needs to have in mind its political influence. The independent agency sets its own agenda and can be more proactive, but on the other hand it does not have direct link to the Government's sessions and its influence on the other ministries is also somewhat limited. If the office is established in the scope of some ministry, it has an access to the Government's sessions, but it may happen that CSO development is not very high on the ministry's agenda. Founding statutes need to give clear responsibilities and authorities to the office, as well as commit other administration bodies to cooperation with the office, to sending data for statistical monitoring, etc.

A part from the office for cooperation it is very useful to have liaison officers at all ministries, which are responsible for the communication with the office and with CSOs.

### **9.2.2 Advisory bodies**

Advisory bodies support the work of the responsible office and assure cross-sector promotion of CSOs. Advisory bodies should not only discuss the matters directly affecting the CSO development (e.g. strategy for development, law on CSOs), but should also have the possibility to comment or propose other legislation (e.g. propose different solutions when respective ministry is passing legislation that is affecting CSOs only in the respective field). When establishing the advisory body one should have in mind the political influence of the Government's representatives (senior officials instead of public officials), participation of representatives of ministries important for CSOs and equal representation of CSOs (equal number of ministries' and CSOs' representatives). Some advisory councils include representatives of trade unions, employers and academia as well.

If the establishment of the advisory council is envisaged in the law, this is also one of the factors that can help long-term work without Government's interference (for example, when the new Government was appointed in Slovenia in 2012, one of its first decisions was to abolish more than 100 advisory councils that were not established on the basis of a law).

## **9.3 Citizens participation in legislative processes**

Country should have clear guidance on public participation in decision-making process. It is useful if the guidance is set in legally binding document, however some argue (see Golubovic 2010) that legal nature of guidance is not crucial for its implementation.

In any case the guidance should cover:

- state administrative bodies that have to respect it,
- acts that are included with clear (closed) list of exceptions,
- obligation to inform the public at the beginning of each year, which legislation will be prepared in the respective year,
- obligations to include stakeholders in early stages of drafting (e.g. working groups),
- obligation to publish all drafts with supporting documents (analysis, RIA, etc.) on the Internet,
- sufficient time for consultations (at least 15 working days, although we recommend 30),
- obligation to prepare feedback reports (report on the received comments, their consideration and arguments why were they or were not taken into account).

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