

## Policy Brief

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## From Funder to Partner? Prospects for the European Neighbourhood Policy's Civil Society Facility

The Open Society Foundations works through its offices in five of the Eastern Partner countries, and through a regional office in Amman focused on the Southern neighbourhood to support civil society throughout the neighbourhood region. The Open Society Institute-Brussels, the EU policy arm of the Foundations, views the European Neighbourhood Policy (ENP) as a positive framework through which to promote open and tolerant societies, and civil society as the cornerstone to an effective ENP. OSI-Brussels' previous assessments of the March 2011 proposal for a Partnership with the Southern Neighbourhood, progress in the Eastern Partnership, and the May 2011 Communication on the ENP, have all called for a Civil Society Facility based on current needs, previous EU experience, and with an ambitious policy-driven mandate.<sup>1</sup> This policy brief provides a more detailed response to the discussions around a Facility within the ENP and suggests options for its development.

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### Introduction

In the wake of the Arab Spring the EU announced its intention to foster a “partnership with societies” in its Eastern and Southern neighbourhood. The ENP review Communication emphasised an approach that goes beyond cooperation with governments to engagement with civil society.<sup>2</sup> As part of this effort, the EU will establish a Civil Society Facility to provide “dedicated support[...]aimed at developing the advocacy capacity of CSOs and increasing their ability to monitor reform and participate effectively in policy dialogues.”<sup>3</sup> The establishment of the Facility suggests a better appreciation by the EU of the mutual benefit of strengthening its relations and cooperation with CSOs.<sup>4</sup>

This policy brief explores how to make the new Facility effective in supporting independent civil society. It starts from the premise that it is in the interests of both the EU and civil society to work in partnership. Upgrading the EU's relationship with civil society from beneficiaries of EU funds to partners in a strategic investment will pay dividends for the EU whilst better enabling CSOs to act as change agents. EU support and promotion of civil society within a broader strategy of CSO engagement will increase the EU's legitimacy and effectiveness in its neighbourhood. The Facility can help achieve this step-change by complementing existing instruments and initiatives as well as improving the mechanics and modalities for efficiently moving funds to their final destination. The first section of the brief presents the current proposals being discussed at EU level and identifies challenges. The second assesses previous experience in

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<sup>1</sup> *Response to Joint Communication on Partnership for Democracy and Shared Prosperity with the Southern Mediterranean*, April 2011; *EU policy towards the Eastern neighbours: a new wave of improvement*, May 2011; and *European Neighbourhood Policy: Positive Steps and Open Questions*, June 2011. All available at [www.osi-brussels.eu](http://www.osi-brussels.eu).

<sup>2</sup> HR/VP-Commission Joint Communication, “A New Response to a Changing Neighbourhood: A review of European Neighbourhood Policy”, Brussels, 25/05/2011, COM(2011) 303.

<sup>3</sup> HR/VP-Commission Joint Communication, “A Partnership for Democracy and Shared Prosperity with the Southern Mediterranean”, Brussels, 8/03/2011, COM(2011) 200, p6.

<sup>4</sup> The term Civil Society Organisations (CSOs) is used here to denote a broader range of actors than NGOs (including a range of not-for-profit entities, universities and institutes, think tanks, trade unions, social movements) and is preferred to Non-State Actors (NSAs), which includes the private sector.

Central and Eastern Europe and the Western Balkans, drawing lessons which could be factored into the ENP Facility. Finally we present proposals as to what the Facility could prioritise, as well as suggestions for its working methods.

### Possible components and their added value

There is growing understanding that if the EU wants its investment in civil society to have impact in concert with its broader policy aims it must create mechanisms which resonate with local actors. The current proposal on a Civil Society Facility sees a €22mn allocation for 2011 that the EU will start programming before the end of the year, equally divided between the Eastern and Southern neighbourhoods.<sup>5</sup> The aims correspond to those spelled out in the ENP review Communication, namely strengthening CSOs, contributing to an enabling environment for their work, increasing CSO involvement in programming, implementation and monitoring of EU assistance and policies in the region and promoting involvement in policy dialogues (to increase interaction between CSOs and national as well as local authorities). Picking up on areas of weakness identified by the European Commission, it further aims to improve the capacities of CSOs, streamline ongoing consultations between CSOs and EU actors, and improve EU visibility and financing support to CSOs in the neighbourhood.

The Commission plans to fund the Facility for three years through additional funding under the existing Indicative Programme (2011-13).<sup>6</sup> Proposals presented for discussion in a Commission non-paper from May 2011 and a subsequent Action Fiche have three components:

- 1) Support to CSOs to promote reform and public accountability;
- 2) Support to CSOs through regional or country projects; and
- 3) Support to the involvement of CSOs in sector policy dialogues between the EU and partner countries and in the implementation of bilateral programmes.<sup>7</sup>

The Commission proposes to start programming the first two components in 2011 with first calls for proposals by the end of 2011.<sup>8</sup> The third component will be developed over 2012-13.

These three components would bring some added-value to CSOs which often lack capacity and/or access to policy making processes. **Component 1** (which carries an initial commitment of €7mn for 2011)<sup>9</sup> has a logical focus on capacity building and needs-analysis. The Commission proposes mapping studies in the partner countries (reportedly 4 out of 17 such studies have been done, although such studies need to be completed frequently as situations change).<sup>10</sup> There would also be capacity building of beneficiaries through training and ad-hoc support on topics ranging from policy analysis, advocacy, monitoring state performance, reporting, and building coalitions and networks, as well as Commission aid modalities and how CSOs can become involved in development, monitoring and budget support operations.

This approach could usefully promote a variety of methodologies and help CSOs identify those which best fit their needs and could include resource centres or a help-desk which would ensure continuity of support between training sessions. Trainings will range from the use of monitoring and critical watchdog methodologies to more collaborative advisory strategies. Whilst the overall approach is valid, it is worth

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<sup>5</sup> The budget for 2012 is not yet known but likely to be 50/50 funding between South and East.

<sup>6</sup> Civil Society Consultation, 25 May 2011, Brussels.

<sup>7</sup> Draft - Discussion Note: Proposal for a Civil Society Initiative in the ENPI region, Commission Non-Paper, May 2011. Action Fiche for Neighbourhood Civil Society Facility, September 2011.

<sup>8</sup> This will involve a mix of technical assistance (scoping, mapping and strengthening capacities as well as developing a strategy for the Facility), worth €3mn and direct support to actors topping up support available in existing local and regional programmes, notably EIDHR and NSA/LA. The indicative amounts for these calls are €5mn and 3mn respectively.

<sup>9</sup> European Commission, September 2011.

<sup>10</sup> For instance the TACIS (Technical Assistance to the Commonwealth of Independent States) funded project "Strengthening Civil Society in Moldova", was launched in 2006 based on the needs assessment developed in 2003. The project run by the Brussels-based consulting firm Transtec invested €1,3mn in parallel structures to the existing Social NGOs Network supported by other donors during 2004-2005, including OSF and the UK's Department for International Development.

recognising that civil society activists cannot become policy analysts overnight. A model allowing for mentoring (a joint proposal between an analytically strong organisation and a grassroots/service or network organisation) with a clearly identified policy-making 'client' (which could be the EU itself), would guarantee the best product whilst building capacity. Aside from regular consultations and informal contacts between EU delegations and CSOs, tripartite dialogues (meetings and conferences in which the EU plays a convening role and to which CSOs and state representatives are invited) send a strong signal of support to principles of participation and accountability.

The EU will have to employ its "differentiated" approach to each country while being sensitive to attempts by governments to monopolise such discussions. It is especially important to avoid instances where governments manipulate civil society seminars or meetings organised around a structured human rights dialogue by dictating the agenda or restricting attendees to official public councils on NGOs, or other government-organised NGOs.<sup>11</sup>

**Component 2** aims to link CSO assistance to ENP political developments, such as the monitoring of ENP Action Plan commitments, as well as activities in support of the regional political agendas (Eastern Partnership and Union for the Mediterranean). In addition to monitoring policy commitments, CSOs could be encouraged and supported to monitor sectoral financial assistance delivered under EU budget support and track its political impacts—delivering findings to both the EU and governments. A specific regional call for a flagship activity could be used to support CSO fora (Eastern Partnership CS Forum and Euromed Platform) on specific initiatives in which they are engaging. If there is demand to do so, supporting CSOs to address issues like freedom of association, specific NGO laws, or other core rights issues, would lend the Facility greater teeth and visibility as a tool for change, rather than becoming a mere funding pot.

**Component 3**, encouraging partner governments to implement bilateral programmes aiming at reinforcing civil society, has commendable aims. At the same time attention must be paid to bolster CSOs who are willing to scrutinise and criticise government and to avoid supporting or reinforcing GONGOs. The Commission also proposes to promote CSO policy engagement in specific sectors which, if done rigorously, can have impact in supporting broader work on horizontal issues such as fundamental rights. Monitoring a seemingly 'soft' sector of public spending or government activity (such as health budgets and spending) is technical, yet important to fostering government and donor accountability.<sup>12</sup> Strong EU political support for access to information would be a logical part of this approach and would be complemented by EU officials ensuring greater openness to consultation processes, particularly in-country.<sup>13</sup>

The Commission also proposes to conduct multi-stakeholder consultations at national level involving CSOs, national authorities and EU delegations to identify ways to facilitate CSO participation in selected sector policy dialogues. As mentioned above, the EU can play an important role as a convenor of tripartite consultations. The scope for CSOs to have access to governments varies from country to country and the EU can usefully help push for broader inclusion (either constructive input or monitoring) across a range of policy areas.<sup>14</sup> EU support for CSO monitoring activities would be of benefit to the EU for measuring the impact of EU programming and projects in-country at a time when resources are strained.

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<sup>11</sup> Government Organised NGOs, or GONGOs, are a well-recognised problem throughout the Eastern and Southern neighbourhood. Shadi Hamid of Brookings Doha Center provides a useful definition of GONGOs as 'funded, staffed, and otherwise supported by governments. The idea is not to instigate or inspire change, but rather to control and manage it'. Quoted from *Civil Society in the Arab world and the dilemma of funding*. [http://www.brookings.edu/articles/2010/10\\_middle\\_east\\_hamid.aspx](http://www.brookings.edu/articles/2010/10_middle_east_hamid.aspx)

<sup>12</sup> A report compiled by the Transparency and Accountability Initiative, a strategic partner of the newly launched Open Government Partnership, defines and sets out guidelines for transparency, accountability and participation across different sectors. See, *Opening Government: A guide to best practice in transparency, accountability and civic engagement across the public sector*, Transparency and Accountability Initiative, <http://www.transparency-initiative.org/wp-content/uploads/2011/07/Opening-Government2.pdf>

<sup>13</sup> See Annex I, Recommendations from the Human Rights and Democracy Network for European External Action Service Consultations with Civil Society Organisations, 14 June 2010.

<sup>14</sup> The EU has included consultation with CSOs in the matrix of conditionalities for a sector support programme, as is the case with the SPSP on Justice in Georgia (AAP 2007).

## Practical considerations

The Facility has the potential to provide dedicated financial assistance for civil society organisations in the neighbourhood and to redress the balance within the ENP between direct-to-government funding and funding to support CSOs.<sup>15</sup> These countries have until now had no dedicated funding instrument beyond the EU's global human rights and democracy instrument, the EIDHR.<sup>16</sup> Yet there are a number of practical considerations to bear in mind and pitfalls to avoid.

The first consideration relates to **modalities for disbursement**. Many of the risks to the impact and efficiency of the Facility lie in the modalities and mechanics of its implementation. For example, it is unclear at the present time whether money will be disbursed through local calls by EU delegations, aiming for contacts with smaller CSOs, or through larger calls via Brussels. Consortia may be listed among the eligible beneficiaries—particularly in handling regional calls—which leads to questions of ownership and the risks of larger organisations or profit-oriented consultancies diverting money away from smaller, local groups, or of local groups changing their mandate to fit their funding needs. The influence of the national government and their control over big and small organisations will also be a factor for the EU to consider when designing the Facility.

Second, and related, is the issue of **flexible funding and risk management**. Changing the EU funding culture and its pathological aversion to risk will be an important step towards ensuring future EU funding is sufficiently flexible to meet the needs of CSOs and also keep the EU relevant as a donor which can support change.<sup>17</sup> The burdensome requirements linked to applying for and managing EU grants are well known and acknowledged by EU officials as well as civil society organisations. The consensus among CSOs is that EU funding is a “last resort”. The reality of depleted funding opportunities (unless in reactive mode, such as current pledges to the Southern Neighbourhood) increasingly means that there is no choice but to apply for EU funding.

In addition to institutional core grants, CSOs need quick, flexible funding. Currently that type of funding is in theory only available under the Instrument for Stability, and therefore not applicable to the majority of CSOs in the ENP regions that do not fit the more political and security-related criteria. This change of approach also implies moving away from quantitative assessments (number of projects, outputs and accounting for spending) to qualitative assessment of project impact. To achieve this step-change, regardless of the funding mechanisms the EU opts for, increasing capacities in EU delegations to support the influx of funding and real civil society outreach is essential. At the same time, since capacity will always be a challenge, the EU delegations might consider selecting organisations which do not represent risk for them, whilst allowing that partner to take risk, through re-granting, thereby sharing responsibility.

Third, there is an issue of **compatibility with other instruments of support to CSOs**. If the CSO landscape is hard to navigate for EU officials, the plethora of EU instruments and entry points for funding form a complex picture for CSOs in the neighbourhood who will need assistance deciphering their options. These include Non-State Actors and Local Authorities for development (NSA/LA) which aims to support beneficiaries' involvement in the policy making processes and in the delivery of basic services to vulnerable populations.<sup>18</sup> EIDHR also funds civil society in the region through country-based support schemes or on thematic issues and can be used without the agreement of third country governments. In addition the relationship between the new Facility and existing platforms for CSOs under ENP initiatives will need to be addressed. The Eastern Partnership Civil Society Forum, for example, brings together approximately 140 CSOs from 6 Eastern countries and can provide the EU with

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<sup>15</sup> Other instruments NSA/LA and Instrument for Stability have also been used to support civil society in terms of provision of basic services. In the Eastern Neighbourhood, however, OSI-Brussels found the percentage of EU support going to civil society to be very low, at 1.4% of total EU funding provided to the countries. This average figure for 2007-2009 varies from 0.3% of EU funding in Ukraine, 2% in Azerbaijan, Georgia and Moldova, 3% in Armenia and Belarus.

<sup>16</sup> European Instrument for Democracy and Human Rights, [http://ec.europa.eu/europeaid/how/finance/eidhr\\_en.htm](http://ec.europa.eu/europeaid/how/finance/eidhr_en.htm)

<sup>17</sup> See, *Striking a Balance: Efficiency, Effectiveness and Accountability*, F.M. Partners Limited on behalf of OSI-Brussels, Concord, the Social Platform, SOLIDAR and the European Women's Lobby, 2005. Available at [http://www.soros.org/initiatives/brussels/articles\\_publications/publications/financial\\_20050430](http://www.soros.org/initiatives/brussels/articles_publications/publications/financial_20050430)

<sup>18</sup> In 2011 NSA/LA covers 5 EaP countries (except Azerbaijan), and 12 out of 16 ENP countries.

useful networks for consultation. At the same time, it would not necessarily be helpful for such established fora to monopolise Facility funding, since not all CSOs are connected to such processes.

There is also the question of overlap with the proposed European Endowment for Democracy (EED) as well as EIDHR. It is important to protect the work being done to support CSOs under EIDHR (including confidential support to non-registered CSOs receiving funding in countries where human rights are most at risk). Opening up new avenues for support through the Facility or the new EED would be useful if these tools offer the beneficiaries the flexibility they need.<sup>19</sup>

A final factor that should be taken into account is the need for **ongoing consultation and mapping**. Working with civil society, knowing whom to consult and how to meet needs whilst keeping to an agenda can be a proverbial minefield. To navigate it, the donor needs to be constantly engaged with civil society throughout a project and at all levels of planning and evaluation. This can enhance understanding of the recipients' capacity and needs, as well as ensure greater impact. Developing an understanding of the CSO landscape through regular engagement with CSOs and observing progress made by other donors will also enable the EU to avoid pitfalls, overlap and unhelpful competition between donors or CSOs. This will be important with regard to the Southern Neighbourhood where the massive increase in private funding opportunities for CSOs underscores the need for the donor community to coordinate.

### Lessons from the accession countries

The EU has provided support to civil society in accession countries first through the PHARE<sup>20</sup> programme and most recently through the Civil Society Facility of the Instrument for Pre-Accession (IPA CSF).

The IPA CSF supports capacity building of CSOs in the Western Balkans and Turkey, provides grants for partnership actions and funds visits of local activists to the EU. Overall the Facility was welcomed by local civil society actors, but not without some criticism.<sup>21</sup> When developing the Facility the Commission did not adequately consult with local CSOs which subsequently weakened ownership and participation. The EU did not take full advantage of existing structures and resources and therefore risked disregarding progress already achieved by other donors. The CSF is seen very much as accession- rather than demand-driven. This is reflected in the choice of topics of trainings and partnership grants.

Some disappointment with the IPA Facility relates to the failure by the EU to communicate it properly leading to the misperception by CSOs that the EU would provide mainly grants to local NGOs. Where there is grantmaking, re-granting should be encouraged,<sup>22</sup> taking into account the needs of smaller CSOs with less absorption capacity. The percentage of the co-funding requirement (which functioned as a deposit required in order to receive a grant) should be reduced to a minimum.

In its search for improving access to funds, the EU could apply the PHARE model used in several candidate countries in Central and Eastern Europe, and deliver assistance to CSOs through national civil society development foundations.<sup>23</sup> One of the main advantages of such a model is that local foundations know the local needs better than external donors and have better contacts on the ground. This is particularly helpful for reaching rural areas and disadvantaged groups. In addition, the management costs of local foundations are considerably lower than those of Western organisations.

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<sup>19</sup> See OSI-Brussels Discussion Paper, *How Could a European Endowment for Democracy Add Value?* September 2011. [http://www.soros.org/initiatives/brussels/articles\\_publications/publications/eed-paper-20110927](http://www.soros.org/initiatives/brussels/articles_publications/publications/eed-paper-20110927)

<sup>20</sup> Poland and Hungary: Assistance for Restructuring their Economies.

<sup>21</sup> Details in OSI-Brussels background paper, *Civil Society Facility in accession countries: What can we learn for EU support to civil society in the neighbourhood?* August 2011. See shortened version in Annex I.

<sup>22</sup> The current EU Financial Regulation allows re-granting of up to €100,000 of the total cost of the contract, and maximum €10,000 per organisation. At the time of writing a proposal to broaden the scope of re-granting is pending the decision in the European Parliament and Council.

<sup>23</sup> The EU has applied this model in Bulgaria, the Czech Republic, Poland, Romania and Slovakia. See details in study commissioned by OSI-Brussels *Promoting Democracy through Civil Society: How to Step up the EU's Policy towards the Eastern Neighbourhood*, by Kristi Raik, CEPS Working Paper, 2006, <http://www.ceps.be/book/promoting-democracy-through-civil-society-how-step-eus-policy-towards-eastern-neighbourhood>

This model requires that the government of the recipient country respects independent civil society activity and does not try to intervene in the foundation's work. Such foundations would therefore need to work hand in hand with the local EU delegation. This model would also require changes to the EU Financial Regulation to allow the allocation of larger scale re-granting. The EU could consider a hybrid model, including 1-2 EU experts on the ground in such foundations or in a local EU embassy to ensure EU 'direct' involvement, at lesser cost than building capacity through the EU delegation. Given the fact that the EU frequently works with expert CVs and tendering, this would be aligned with current practice.

### Recommendations: Matching EU and civil society needs

If the Civil Society Facility is to achieve its goals to support CSOs beyond offering financing the EU must be aware of both the political signalling in the approach as well as the impact of funding. Explicit recognition of how the Facility is aiming to shape the context in which it is working, particularly in constrained and closed environments, will give it more traction with governments and greater credibility among beneficiaries. Seeing the project cycle as part of an EU political strategy supporting reform and democratisation, but ensuring it meets local needs through consultation with local CSO actors will be an important balance to strike.

Below are some practical recommendations:

#### 1. Align funding and political support

Funding needs to be accompanied by political support, for example through tripartite consultations, involving the EU, the partner government and civil society, in which CSOs participate fully and are given right of initiation on some points on the agenda.

- ▶ Adapt Facility funding to sectors the EU is supporting politically, following consultations with CSOs about prioritisation.
- ▶ Align Facility funding with political objectives which are critical to a functioning civil society. In practice this means keeping the instrument as demand-driven as possible and allowing CSOs to set priorities without government and/or donor interference on issues of local concern.<sup>24</sup> The EU could also consider taking on these issues as regional flagship issues.
- ▶ Political statements by the local EU delegation, backed where necessary by statements from Brussels, would be a way of providing support to civil society and reaching out to the broader community. The practice of other donors, particularly the US, demonstrates how this brings greater visibility.
- ▶ Support for immediate, time-limited actions—such as local monitoring during elections—can demonstrate that the EU is responsive to local needs.<sup>25</sup>
- ▶ Support for monitoring of crucial tenets of emerging or developing democratic societies, particularly those relating to “deep democracy” as defined in the ENP review Communication, would give EU benchmarks more teeth. These include *inter alia*, media monitoring including media ownership, financing of political parties and electoral campaigns, monitoring of courts and funding for anti-corruption cases.

#### 2. Ensure adequate EU delegation capacity

In order to build capacity the principle EU actor (the EU delegation in country) needs capacity of its own. In the dual post-decentralisation and post-Lisbon reality, delegations are being increasingly relied on by

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<sup>24</sup> One area could be improving NGO laws, namely funding CSOs to monitor/assess legislation and campaign for changes and backing this funding with political support where needed. Similarly freedom of information is another area where CSOs can work to shape practices because FoI laws give them right of initiation.

<sup>25</sup> For example, EU support for monitoring media coverage during the 2009 elections in Moldova enabled CSOs to put pressure on the Central Election Commission to intervene on several occasions when the rules were ignored by the government-controlled media.

headquarters to act as in-country hubs for track 1, 2 and 3 diplomacy.<sup>26</sup> Delegations need to be equipped with the staff to handle this level of outreach and interaction, with the necessary coaching from headquarters and political support from member states. On the political side, the EU's External Action Service and the member states need to resolve whether delegations are to act as coordinators or empowered political actors with regard to action in support of democracy and human rights.

- ▶ Boost structures and capacity in EU delegations as this will be critical to achieving the goals of the Facility, as well as broader goals of the revised ENP.
- ▶ Provide funding to EU delegations and training to their staff commensurate with their increased responsibilities under deconcentration in general and the ENP in particular, with the aim of empowering delegations to take a leading role in support of democracy and human rights.

### 3. Plan and communicate

Consultations with CSOs are useful if they are planned, regular and genuine. At times this might constitute informal consultations in addition to identified official entry points. In-country consultations in addition to links between EU delegations and local groups will enrich the policy process.

- ▶ Maximise impact by getting to know partners and their capacities. This includes, *inter alia*, understanding the difference between consultations at local level (for local context) and with EU and Brussels-based CSOs (which are more useful in understanding and shaping EU policy process).
- ▶ Privilege in-country consultations at all stages of consultation processes and involve local civil society in the first planning stages to understand its needs and priorities. This can be done through a thorough needs assessment before setting up goals and objectives (see below).
- ▶ Clearly explain and promote the aim and scope of the initiative to local stakeholders to create realistic expectations and common grounds for dialogue. This will also provide a platform for distinguishing between attributes and mandates of different CSOs which will in turn inform their ability to respond to capacity building exercises.

For their part CSOs seeking entry points for input need to be ready to provide products and—where consulted in a timely manner—give timely reactions. They also need to be prepared to discuss frankly with EU actors and donors their objectives and capacities in order to ensure a correct fit between their needs and expectations and those of the donor.

### 4. Include existing local networks

- ▶ Use existing resources (e.g. support existing networks with logistics and strategic funding) rather than putting in place new, parallel structures.
- ▶ Ensure solid participation of local networks and CSOs in proposals by making the presence of established local networks or CSOs a criterion of a consortium proposal's eligibility.
- ▶ Set up re-granting mechanisms based on the big-brother principle (similar to re-distributive PHARE actions for civil society, while tailored to needs of CSOs in ENP countries).
- ▶ Support involvement of local stakeholders throughout the implementation of the programme (e.g. programme funds for travel for representatives to Brussels to committee meetings and consultations).
- ▶ Encourage networking and exchange between regional NGOs, in parallel with projects supporting partnerships with EU-based organisations.

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<sup>26</sup> Track 1: official diplomacy; track 2: civil society, expert community, people-to-people contacts; track 3: broader society and public diplomacy.

- ▶ Tailor trainings to meet the needs of a variety of NGOs recognising the different functions and activities in which they engage (e.g. watchdogs, policy formulation and recommendations, disseminating information, strategic litigation, service provision).

## 5. Seek sustainability

- ▶ Create institutional structures that can continue beyond Facility implementation period; where applicable this could include mechanisms for fostering NGO network coordination and interactions with government bodies.<sup>27</sup>
- ▶ Create institutional grants, set up for 3-4 years to strengthen the functioning of civil society champions and allow them to concentrate on content issues.

## 6. Pay attention to local context

- ▶ Conduct a sectoral needs analysis in the design phase of interventions (checking what other donors have already researched) and pay close attention to local context (including systemic issues and incentive structures) in order to tailor support. This exercise should be repeated if time has lapsed since a previous donor assessment to avoid duplication or out-of-date assumptions being applied to the context and to ensure understanding of the political context, including systemic issues and incentive structures—namely the presence of GONGOs.
- ▶ Take decisions locally as far as possible, either through increased capacity in delegations with at least two staff to deal only with human rights; a political focal-point dealing with consultations, outreach and statements, and a colleague handling project management relating to civil society support (be it through the Facility, EIDHR or, where relevant, a proposed EED). It may be more flexible (in both political and administrative terms) to house a civil society contact point in a member state embassy or take a PHARE approach to funding, involving a hybrid-model of a national foundation with two or three EU programme officers or experts housed within it. This combines a need for decentralised, local decision-making and disbursement with the need for centralised financial accountability.

## Conclusion: Towards a Strategic Partnership

The Facility sends a crucial and timely signal to the neighbourhood that the EU will be proactive in developing specific tools to support the CSO sector. It has the potential to make a difference, but it is important to ensure it is operationalised in a manner which allows for maximum local participation and ownership. The Facility sits within the context of a broader set of policies and commitments to civil society, the realisation of which is important to ensure the EU's credibility among an important constituency for its diplomacy. Commitments to holding open, transparent and regular dialogue with representatives from civil society, and to working in a way which promotes good governance and the participation of civil society indicate that an engaged and robust civil society is increasingly both a method and a goal for EU policy.<sup>28</sup>

The sharper, more strategic vision recently elaborated in the ENP Communication creates space for a “greater political role of non-states actors”, a “partnership with societies” and recognises the mutual benefit for the EU and civil society in building a relationship beyond funding. An EU Civil Society Facility for the neighbours offering both funding and political support can be an important step towards achieving this vision.

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<sup>27</sup> See, for example, the Office for Cooperation between Government and Civil Society in Serbia and Croatia.

<sup>28</sup> See Annex II, Human Rights and Democracy Network's Recommendations for EEAS CSO consultations.



## ANNEX I

### Civil Society Facility in the Balkans:

### What can we learn for EU support to civil society in the neighbourhood?<sup>29</sup>

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#### Summary

The Civil Society Facility (CSF) of the Instrument for Pre-Accession (IPA) supports capacity development and initiatives of civil society organisations (CSOs) from the Western Balkans and Turkey. A similar instrument is now being designed to support civil society in the EU's neighbourhood.<sup>30</sup> This background paper provides a basic review of the IPA Facility, identifies shortcomings and draws lessons that might result in a better use of EU resources in its neighbourhood. It is based on reference documents and interviews with Brussels-based and local stakeholders conducted by the Open Society Institute-Brussels between January and April 2011.

The CSF was welcomed and encouraged by local CSOs, but its implementation has been criticised. The problem can, to a certain extent, be traced to a series of misunderstandings related to the scope of the initiative. One strand of criticism is that the CSF is very much *accession-* rather than *demand-*driven. This is reflected in the choice of topics of partnership actions and technical trainings, as well as in the setup of the grant schemes. The CSF has been accused of “reinventing the wheel”; disregarding progress already achieved by previous donors and not taking full advantage of existing structures and resources. Moreover, while sustainability is a concern shared by both local actors and the Commission, there is an important difference of opinions on how it can be achieved.

There are a number of improvements the EU could consider while designing a similar civil society facility for its neighbourhood:

- ▶ Involve local CSOs from the beginning and on all levels of planning and evaluation, in order to understand local capacity and needs and respond effectively to those needs.
- ▶ Use the existing resources, e.g. support existing networks with logistics and strategic funding rather than putting in place new, parallel structures.
- ▶ Set up local or regional re-granting mechanism to reach out to local organisations.
- ▶ Ensure sustainability by supporting institutional mechanisms of dialogue between civil society and government.

#### How does the CSF work?

The CSF was launched in 2008 as part of the new Enlargement Strategy of the European Commission, which included support to civil society in the Western Balkans (similar initiatives had already been taken for Turkey and Croatia starting in 2005). The initiative is funded through IPA, as a multi-beneficiary regional initiative and in parallel to IPA national initiatives. The total amount allocated to CSF is €13,800,000 for 2009-2011.

CSF consists of three strands:

#### 1. Technical Assistance (TACSO):

- ▶ became functional in 2008 with an initial budget allocation of €8 million; the winning consortium received €6.7 million for 2 years. The rest of the funds have been, at least partially, re-distributed to Partnership Actions;

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<sup>29</sup> Annex II is a shortened version of the original background paper. For the full text contact OSI-Brussels.

<sup>30</sup> See Joint Communication by HR/VP Ashton and the Commission “*A New Response to a Changing Neighbourhood*”, 25/05/2011, COM (2011) 303: [http://ec.europa.eu/world/enp/pdf/com\\_11\\_303\\_en.pdfm](http://ec.europa.eu/world/enp/pdf/com_11_303_en.pdfm), and OSI-Brussels’ assessment *European Neighbourhood Policy: Positive Steps and Open Questions*, June 2011, [http://www.soros.org/initiatives/brussels/articles\\_publications/publications/changing-enp-response-20110601](http://www.soros.org/initiatives/brussels/articles_publications/publications/changing-enp-response-20110601).

- ▶ targets civic and capacity-building initiatives to enforce the role of civil society;
- ▶ is based on a service contract for a duration of 24 months; tender organized by the EC and awarded to a consortium lead by SIPU International from Sweden,<sup>31</sup> with partners from Bosnia and Herzegovina (BiH), Turkey, Poland and Romania.
- ▶ Structure: SIPU has established national TACSO offices in each of the Balkan countries, as well as a regional office in BiH to organize regional activities. TACSO offices have created Local Advisory Groups (LAGs) composed of representatives from CSOs to advise on further programming. A Steering Committee composed of representatives of the LAGs, but primarily Brussels-based CSOs, meets regularly to discuss future directions of the program.

## 2. People 2 People Programme (P2P):

- ▶ became functional from 2009 with a budget of €2 million for 2 years;
- ▶ supports visits of local CSOs to EU institutions and bodies to exchange experience, know-how and good practices between beneficiaries, EU and Member States;
- ▶ based on annual service contracts; organised by TAIEX<sup>32</sup> and EU Delegations.

## 3. Partnership Actions

- ▶ started in 2009 with an overall budget of €4.5 million for 2 years;
- ▶ aims to strengthen CSOs in the IPA region and to create partnerships with EU-based CSOs; it should help local CSOs learn and become capable to compete with EU-based CSOs after accession;
- ▶ it is a grant programme based on calls for proposals organised by DG Enlargement on set themes: fight against corruption, organised crime and trafficking (€1.7 million); environment, energy efficiency, health and security at work (€2.5 million); Environmental Forum (€0.3 million);
- ▶ funded projects are implemented by between 1-3 CSOs from IPA region and one EU-based partner.

The Commission is planning some changes in the second implementation period based on consultation with civil society actors. The evaluation is still on-going and concrete indicators regarding the second phase of TACSO are still missing.

### What is positive about the CSF?

- ▶ It provides concrete and direct support from the Commission for the development of CSOs.
- ▶ It offers an opportunity to activists in the region to network with EU-based organisations and to understand EU institutions (especially through P2P).
- ▶ It facilitates networking and mutual learning at regional level.
- ▶ The TACSO website provides visibility of projects and information sharing at regional level.

### Shortcomings of the CSF

#### Planning and setup

Local civil society representatives were not adequately consulted in the planning phase of the CSF. A needs assessment was completed later by the winning consortium of TACSO, along the directive lines of the project, but many local organisations felt that the results did not reflect their real needs and existing capacity.

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<sup>31</sup> The Swedish Institute for Public Administration: <http://www.sipuinternational.se/international/>.

<sup>32</sup> TAIEX is the Technical Assistance and Information Exchange instrument managed by the Directorate-General Enlargement of the European Commission. [http://ec.europa.eu/enlargement/ta/ex/index\\_en.htm](http://ec.europa.eu/enlargement/ta/ex/index_en.htm).

Regarding the tendering process, SIPU had a solid background in implementing projects of this size and had the most cost-effective proposal. However, local CSOs have contested the involvement of SIPU; they feel this reduces their ownership of the initiative. Many of the problems with the CSF on the ground are due to the lack of initial involvement of local actors in the steering consortium.

### Consultation and communication

Although in the case of TACSO several mechanisms are in place to involve local organisations (LAGs, Advisory Board), activists feel that they are not fully included in the planning and evaluation of the initiative. This is due to lack of understanding in the Commission of local capacity and needs. The mechanisms are sometimes inadequate: in the case of TACSO the Advisory Board is composed mainly of Brussels-based organisations, the only exception is the Balkan Civil Society Development Network (acting at regional level); no funding is programmed for travel of regional actors to meetings in Brussels, which makes it difficult for them to participate.

Moreover, activists are critical of the way in which the initiative has been explained to them - many have misinterpreted the intentions of the Commission and believed that the CSF would come in the form of a grant-making mechanism and have been disillusioned when presented with its final form, predominantly technical assistance.

### Implementation

#### 1. TACSO

- ▶ It does not make use of existing national and regional NGO networks and of their experience. Activists feel that the local TACSO offices are unnecessary and could be easily replaced by the existing local networks, much more knowledgeable and equipped to handle the tasks. Most of the time TACSO local offices do not bring added value in terms of content - they use local actors to outsource trainings - and function primarily as an interface with the implementing consortium.
- ▶ Trainings are driven predominantly by accession goals (accessing structural funds, PR and communication) rather than to cover more stringent needs of local CSOs in their context (monitoring governments, rule of law issues etc.).
- ▶ The training offer is not tailored to different types of CSOs. Big professional organisations in urban areas have already gained skills in most areas proposed by TACSO (existing capacity on the ground and previous donor impact) and are interested in trainings on government monitoring and watchdog activities. Smaller rural organisations have more basic needs - many do not have computers and their members lack computer skills, and their training needs to initially address basic capacity issues.

#### 2. People to People

- ▶ Poor knowledge of English is a barrier for many interested participants in study visits.

#### 3. Partnership Actions

- ▶ The topics of the calls reflect current EU concerns (environment, energy efficiency) and in this sense trigger relatively new areas for civil society involvement. However, civil society representatives feel there are more pressing concerns (minorities, human rights, rule of law) that are not sufficiently addressed and prioritised.
- ▶ Partnerships with EU-based CSOs are seen as beneficial in some cases, but there is not always an added value in having an EU partner. On the contrary, smaller organisations with a modest track record and networking capacities have difficulties in finding partners. There is instead a much greater need to partner with other CSOs in the region, which are confronted with similar issues and share the same language.

- ▶ The size of grants, combined with a lack of capacity and of a proven track record, and poor knowledge of English make it difficult for small organisations to respond to calls.
- ▶ Complementarity with other EU programmes: some projects under the Partnership Actions could be supported by the European Instrument for Democracy and Human Rights (EIDHR). The CSF should be used more to strengthen civil society capacities (e.g. watchdog and advocacy).

### Sustainability

While there is an agreement on the need for CSO sustainability, priorities of the Commission and of local actors seem to be different. The Commission seeks to break the dependency of civil society on external donors (including the EU) and encourages volunteering and involving business.

CSOs fear donor withdrawal and the lack of other reliable, stable sources of funding due to a weak culture of volunteering and grassroots or membership-based involvement, and limited involvement from the private sector. CSOs dealing with sensitive political and rule of law issues are especially vulnerable.

Activists feel that reform progress will stall after EU accession unless CSOs are strengthened institutionally (through institutional core grants) and government capacities to involve CSOs in public policies (establishing civil society offices within official institutions and creating strong consultation mechanisms with government, which would survive the withdrawal of EU pre-accession support) are improved.

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7. CSF - Partnership Actions <http://sites.google.com/site/ipa128286/>
8. CSF - People 2 People Program [http://ec.europa.eu/enlargement/taix/p2p/index\\_en.htm](http://ec.europa.eu/enlargement/taix/p2p/index_en.htm)
9. Balkan Civil Society Development Network <http://www.balkancsd.net/>
10. SIPU International. <http://www.sipuinternational.se/international/>

## ANNEX II

### Human Rights and Democracy Network<sup>33</sup>

#### Recommendations for External Action Service Consultations with Civil Society Organisations 14 June 2010

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#### OVERARCHING PRINCIPLES

- Consultations should engage both local and Brussels-based organisations. Local organisations have unparalleled access to information on the ground, Brussels-based organisations have clearer views on policy processes and requirements from institutions. There is a role for both.
- Avoid empty consultations. Consultations held with minimum institutional commitment, follow-up or resources, are easily recognised as perfunctory exercises, and dismissed by participants. The External Action Service (EAS) has a unique mandate beyond primarily technical consultations that have characterised some Commission consultations in the past and should exploit this political dimension.
- The use of expertise in Civil Society Organisations (CSOs) and the development of effective consultation processes should not lead to a downgrading in the level of 'in-house' resources. The unique role that CSOs can play to help ensure effective policy and prioritisation of key issues cannot substitute for expertise within the institutions themselves.
- The EAS should be wary of the 'instrumentalisation' of consultations. Consultations should not be used for alternative agendas contrary to the stated aims, such as for political purposes or for the general development of third country relations, as this could lead to the perception that such processes are irrelevant, or worse, a liability for CSO participants. This could ultimately undermine EAS credibility. The EAS should therefore take the initiative, when there are fears that a consultation is being used in such a way, to actively reorient it to the original aims or stop the process altogether.

#### RECOMMENDATIONS

##### 1. Start with an internal EAS needs assessment

Current negotiations suggest that institutional and national quotas, rather than required expertise, will characterize EAS personnel placement, at least in the short-term. Added to internal adjustments to new structures, this presents the EAS with a clear imperative to address any shortfalls in experience and expertise quickly, in order to avoid missed opportunities for effective external policy. This particularly applies to the areas of peacebuilding, conflict resolution and crisis management, and to the very thin and strained 'silver thread' of human rights and democracy. A potential lack of expertise could also manifest itself in poor understanding of available mechanisms and policy responses, and slow recognition of factors on the ground that would trigger them. Therefore, CSO expertise made available through a combination of consultative processes, both formal and informal, will be an essential resource in ensuring the gaps are covered in the short- to mid- term, and for laying the groundwork for long-term constructive consultation.

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<sup>33</sup> The Human Rights and Democracy Network (HRDN) is an informal grouping of NGOs operating at EU level in the broader areas of human rights, democracy and conflict prevention.

- a) As early as possible, the EAS should carry out an honest self assessment to highlight thematic, regional and policy areas which lack substantive expertise. The decision on how to proceed with CSO consultation, and in what form, should be informed by the results of this exercise.

## 2. Ensure in-house CSO expertise and committed resources for facilitation of consultations

For the options and risks identified, expertise of the NGO sector **within** the EAS is essential. Consultations based on limited knowledge of the actors will result in unnecessary exclusions/inclusions, unclear messaging and consequently unfulfilled expectations. Expertise can be both pulled into EAS structures and nurtured from within. Training of EAS officials should include Civil Society Organisations and issues of human rights and democracy.

## 3. Communication strategy

The EAS should consider a strategy for both information gathering on, and information dissemination to CSOs.

- a) **Information gathering** on CSOs could be in the form of a database/web portal listing thematic and country expertise. This should be *complementary to, not instead of* EAS in-house expertise. Previous Commission/EU web portals or databases have had mixed results and any new data collection instrument should either consolidate and improve what already exists or demonstrate distinct added value.
- b) Information gathering tools should also be integrated into or help enable effective **information dissemination**. Information should be disseminated on websites, both at Brussels level and from the Delegations, which should be used in conjunction with mailing lists. There should also be timely translation into local languages for use by local CSOs. Clear information on when and how to participate in Consultative processes should be made available, as should information on developments in EU policy, including agendas of EU bilateral and internal meetings and supporting documents. This should therefore build on the important work carried out by the former Swedish Presidency to improve transparency and therefore open the process to a wider group of stakeholders.

## 4. A single structured format won't satisfy the different policy areas nor the multiplicity of CSOs

Public interest platforms and networks (HRDN, CONCORD, EPLO etc) are legitimate and experienced actors in consultations. Larger group formats will be useful for information exchanges and formal interaction, but on specific issues that require particular expertise on tight schedules, smaller groups or individual meetings will be more appropriate.

Group 'size' for any particular consultative process should first take into account the desired outcome – focused policy recommendations from experts working to a strict timeline, or broader concept ideas following a longer timeline. **There are at least 5 potential consultation formats:**

- **Bilateral briefings:** The EAS – at all levels and locations – should be open to individual NGOs that seek ad hoc meetings on the basis of initiatives and concerns relevant to the EAS mandate.
- **Focus/working groups:** Ad hoc, small group meetings, or specific working groups, focusing on specific issues, for a fixed amount of time following a jointly agreed format leading to mutually understood goals.

- **Platform initiatives:** Larger group consultations facilitated by the relevant public interest platforms, such as HRDN, or more widely under the EU Civil Society Contact Group. Platforms can be used as a starting point for consultations that then become more focused.
- **In-country consultations:** Local CSOs should be prioritized. Deconcentration and the upgrading to EU delegations mean that in-country representation should also be a more suitable and capable forum for consultations. This does not exclude input from Brussels-based NGOs to identify and assist local actors.
- **Using CSO experts:** The EAS should adopt the principle of multi-disciplinary teams when engaging in fact-finding, pre-CSDP mission deployment and evaluation missions. Though not traditionally seen as a consultation mechanism per se, the inclusion of relevant civil society experts in fact-finding missions, or in-country policy impact reviews will assist policy output.
  - For example, this could include targeted financing over 3-5 years for academic researchers working on thematic issues relevant to EAS (SSR, state fragility, governance, crisis management, development). The researchers could be called upon depending on needs: delegation briefings, fact finding and evaluations in the field, briefings at HR/SG/DG level on specific issues, background policy notes etc.

Different formats are required depending on the particular context, themes or countries. For example, current consultations around EU-third country **human rights dialogues** (including subcommittees) involve three separate meetings: an advance meeting to discuss the agenda, pre-briefing a day before the official consultations and de-briefing after the consultations. There is also a deadline for any written materials. The current annual consultations for EU **enlargement country progress reports** include written submissions that follow a clear template followed by consultations in Brussels with supplementary meetings if necessary. Newer consultation initiatives, such as Brussels-based dialogues under the **peacebuilding partnership** (DG RELEX) with civil society representatives from conflict regions currently involves limited preparatory or follow-up meetings with participants due in part to logistical constraints. The different formats must be carefully designed to match the nature and added value of the organisations being consulted.

## 5. Where possible ensure joint planning and organisation of consultation processes.

Where expertise, resources and interest allow, platforms/networks should be involved as far as possible in facilitating the dialogue or consultative process. This requires clear guidelines on financing and non-interference.

## 6. Ensure maximum contact for each consultation process

One-off consultative meetings are known to have minimal policy impact. A cyclical process of preparatory and follow-up/review meetings have proven to be more effective. Depending on the time available and issue on the table the following steps are possible:

- Initial outreach meeting – discussing issues and potential participants
- Agenda setting
- Pre-draft policy brainstorming/exchange
- Draft review
- Follow up/feedback on final document/policy instrument/initiative
- Inclusion in 'review' process (including on the EAS)/agenda setting for continued consultation.

## 7. Follow-up

Joint follow-up should follow any consultation. The EAS and CSOs should provide explanations as to how they perceived the meeting, how they intend to follow up on any decisions and explore future possibilities.

## 8. Clarity on input-output expectations

- a) Clear and early guidelines should be provided on how the EAS would prefer written submissions and what exactly will be done with them.
- b) The EAS and CSOs should come to a joint agreement in advance on how information presented in consultations can be used, either keeping participation private or using the information in other forums. This will assist in keeping the process transparent, reduce CSO perception of being instrumentalised, and increase CSO engagement.
- c) The EAS should take into account the disconnect between the CSO reality on the ground and the policy language required in Brussels. Local information and analysis may require translating into policy proposals. There should be accommodation for this – either by using the Brussels based NGO community to assist, or providing workshops/training in EU delegations for local NGOs.

## 9. Consider a CSO ‘Consultation Compact’

A ‘Compact’ or framework document that would include general rules of engagement, best practices and combine guidelines would provide a solid foundation for consultation. The EAS has an opportunity to analyse the various consultative process that have occurred within the EU to date and develop an informed policy for future engagement. This Compact could be an optional or semi-formal agreement – but would show commitment from the side of the EAS to the principles of transparency and inclusion as outlined in the treaties.

## 10. ‘Tripartite’ dialogue facilitation

Opportunities for CSO consultations to incorporate dialogue between third country CSOs and their governments should be exploited. As the ‘honest broker’ the EAS could create a valuable, impartial forum to bring civil society and their respective governments together in discreet ‘consultations’ that do not involve direct, politically difficult bilateral meetings. In some cases the ‘instrumentalisation’ risk would be too great – in others this would be an added value. Brussels-based NGOs will be able to provide input on potential situations.

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