

*Strategy for Development of
Civil Society in the Republic of Moldova for 2012-2015 :
Assessment of the objectives and planned implementation steps*

On September 28, Moldovan Parliament passed *Law no.205 on adopting the Strategy for Development of the Civil Society in the Republic of Moldova for 2012-2015 (the Strategy) and the Action Plan on Implementation of the Strategy for Development of Civil Society in the Republic of Moldova for 2012-2015 (the Action Plan)*. On January 4, the official text of the Strategy and the Action Plan was published in *Monitorul Official*. The document was developed in partnership between the Parliament, the National NGO Council of Moldova and government representatives. The process of development of the strategy was supported by the United States Agency for International Development (USAID) as part of the Moldova Civil Society Strengthening Program (MCSSP) implemented by FHI 360 and ECNL. In the following analysis, the European Center for Not-for-Profit Law provides an overview of the adopted document.

1. Rationale of the Strategy

The Strategy is a significant policy document that outlines Government's planning for the next four years in terms of legal and fiscal regulation of the civil society sector, establishes principles of cooperation between public authorities and CSOs, includes general and specific objectives for the CSO development, sets the monitoring and evaluation mechanisms for the Strategy implementation.

The purpose of the document is "to create a favorable 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."¹

The adopted Strategy is the second policy document related to civil society development after the previous Civil Society Development Strategy (2008-2012), which due to the political turmoil and lost momentum, however, failed short from achieving most of its objectives. The supporting Action Plan to the Strategy 2008-2012 was not officially adopted and stayed in a draft form. Only few of the

¹ Strategy for Development of the Civil Society in the Republic of Moldova for 2012-2015.

activities of the draft Action Plan were implemented by the respective Ministries through their internal planning and as a result of CSOs' advocacy efforts².

In contrast to the previous document, the new Strategy 2012-2015 includes a detailed and concrete Action Plan for implementation with the timeframe, responsible bodies for implementation, sources of funding and progress indicators. Hence, there is a concrete roadmap that ensures a proper follow up for the ongoing legal reforms, as well as sets new objectives for policy consideration.

2. Context and process of developing the Strategy and the Action Plan

Moldovan CSOs have a long established record of cooperation with public authorities. Parliament and CSOs enjoy especially active and continuous flow of communication and engagement. The first document on formal cooperation between them, titled *Cooperation Concept between Parliament and Civil Society*, was adopted back in December 2005. Then a major breakthrough in relationships between the two sectors happened with the adoption of the first *Civil Society Development Strategy for 2008-2011*. Based on the learning experience of implementing the first Strategy, Moldovan stakeholders joined their efforts to develop a new policy document. Most notably, ***the Strategy for Development of the Civil Society in the Republic of Moldova for 2012-2015 and the Action Plan to support the Strategy's implementation*** were prepared through an inclusive and participatory process with involvement of representatives of several Ministries³, State Chancellery, members of Parliament and CSOs in line with democratic policy making process.

In February 2012 three working groups were formed that focused on the following areas of the Strategy:

- Strengthening the framework for civil society participation in developing and monitoring implementation of public policies (the group was coordinated by the National Participation Council);
- Promotion and strengthening of the financial sustainability of civil society organizations (the group was coordinated by the National NGO Council of Moldova);

² For example, promoting provisions on public benefit status by the Ministry of Justice, preparing legislative amendments for establishing the mechanism of contracting social services by the Ministry of Labor, Social Protection and Family, preparing methodological instructions on accounting for non-profit organizations by the Ministry of Finance.

³ Among them - Ministry of Labor, Social Protection and Family; Ministry of Health; Ministry of Youth and Sports; Ministry of Education; Ministry of Economy; Ministry of Finance and Ministry of Environment.



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- Development of active civic and volunteering spirit (the group was coordinated by the Coalition for promoting volunteering law and activities).

Preparing and implementing a strategy for the civil society sector can be a challenging and time consuming exercise that, however, shows authorities' and the CSOs' commitment, support and strong partnership in establishing and achieving common goals. As with the previous Strategy, the Parliament took the lead in ensuring that the process of preparing the policy document is well organized and coordinated. Several joint meetings of the working groups were hosted and led by Ms. Liliana Palihovici, 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. An important learning point from the first Strategy was that involving the Government from the initial stage and ensuring their contribution may build momentum and commitment to the Strategy implementation.

The participatory process of developing the Strategy ensured that the CSOs' priorities were properly considered and included in the final text of the document. The process was coordinated by the Parliament and the National NGO Council and was supported by USAID under MCSSP. Comparative European expertise was provided by ECNL experts through in person consultations to the drafter of the Strategy, and several sets of written comments to the drafts based on good European and regional practices. ECNL also participated in three meetings of the working groups, where the draft Strategy was discussed, most of ECNL recommendations were considered by the drafters and found appropriate reflection in the final text of the Strategy.

ECNL would like to thank USAID for making these contributions possible and remains ready to provide further support to local stakeholders based on their expressed needs in ensuring that the objectives of the Strategy are successfully achieved.

3. Specific aspects of the Strategy

Below we focus on some major areas of suggested reforms as included in the Strategy under general and specific objectives and provide additional background information on these initiatives from the European and regional perspective. The issues covered by the Strategy include already ongoing reform processes, e.g. developing a mechanism for social contracting, improving policies for volunteering, fiscal reforms, and the new ones, e.g. establishing a mechanism for public financing from the state budget, establishing a structure at the government level responsible for cooperation with civil society.

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General objective 1. Strengthening the framework of participation of the civil society in developing and monitoring the implementation of public policies

This General Objective embraces the following aspects of participation: institutional forms of cooperation between the public authorities and CSOs; strengthening stakeholders' capacity in cooperating on policy-making and implementation; improving transparency of central and local level government structures.

We will review in more detail *Objective 1.1. on developing institutional mechanisms for cooperation between public authorities and civil society* that provides for developing legal framework and establishing a government structure responsible for cooperation with civil society and strengthening cooperation between Parliament and civil society.

1.1.1. Developing legal framework and establishing a government structure responsible for cooperation with civil society

The present Strategy sets as its first objective carrying out an assessment for establishing a government level structure responsible for cooperation with civil society, which is to be accomplished within the next four months. The structure is meant to assist with ensuring strategic and long-term Government's approach towards civil society, as well as promote and monitor implementation of the Strategy and respective government's decisions.

At the moment there is no focal point⁴ for coordination of government's activities in terms of priorities related to civil society in Moldova and there are various views on the need of having such a body at this point. The existing councils do not carry the mandate of coordination of CSO relevant policies. The new structure or an already existing Government unit through assigned relevant tasks could ensure better policy coordination, planning and monitoring, and thus serve for creating a more enabling and effective framework for cooperation. Several countries in Central and Eastern Europe have pioneered similar initiatives, e.g. Office for cooperation with NGOs in Croatia, Coordinating council on issues of civil society development in Ukraine, Government unit for cooperation with NGOs in Macedonia.

⁴ According to the previous Strategy and its Action Plan creation of Civil Society Advisory Council was envisioned still in 2009, however, this objective was not accomplished due to the political turmoil of the time and lack of political will.



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However, in carrying out the assessment on feasibility of such cooperation mechanism in Moldova it will be important to ensure that proper existing cooperation mechanisms are reviewed and synergies are explored with the already existing channels of interaction between the public authorities and civil society – the National Participation Council⁵ and the National NGO Council. If the Government decides to proceed with this initiative, then the tasks of the government structure should be clearly identified, with appropriate budgetary allocations, and staff that have good track record of cooperation with CSOs and understanding of the needs of the sector.

1.1.2. Strengthening the mechanism for cooperation between the Parliament and Civil Society

The Strategy also reviews the current level of cooperation between the Parliament and CSOs and includes action plan on its improvement. Concept on Cooperation was adopted in December 2005 and provides for continuous exchange of opinions between the Parliament and CSOs through establishing experts' councils, holding consultations on legal drafts, arranging special meetings, public hearings and a yearly conference on civil society issues. A similar document for cooperation exists in Latvia between the Cabinet of Ministers and CSOs⁶ and its implementation is regularly monitored by the Council consisting of representatives of civil society and Government and headed by the Director of the State Chancellery.

This specific objective envisions assessment of effectiveness of cooperation between the Parliament and Civil Society based on the Cooperation Concept between the Moldovan Parliament and civil society, preparing and adopting amendments for improving the Concept. This exercise can contribute to better coordination of activities related to CSOs' involvement in policy making and further institutionalization of developed cooperation between Moldovan CSOs and Parliament.

⁵ The National Participation Council (NPC) established by the Government's decision in 2010 is a consultative body consisting of CSO and independent experts whose function is to participate in Government's strategic planning on various policy areas and to ensure public participation on the central level. While NPC establishes an important cooperation link between the Government and the civil society, it is not empowered, nor has organizational capacity to initiate or monitor implementation of general civil society related policies at the moment.

⁶ Latvian Cooperation Memorandum between Non-governmental Organizations and the Cabinet of Ministers can be viewed here: <http://www.mk.gov.lv/en/sabiedribas-lidzdaliba/sadarbibas-memorands/>



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General objective 2. Promote and strengthen the financial sustainability of civil society

Most importantly, the Strategy includes a comprehensive set of objectives and actions planned in terms of financing priorities for the CSOs. This General Objective addresses the most burning issue of the sector and suggests a number of innovative solutions with a concrete timeline for implementation.

In Moldova CSOs stay highly dependent on the funding provided by foreign donors. There is an evident need for diversification of financing resources for CSOs, primarily through making available and granting better access to domestic resources, providing direct and indirect incentives to improve sustainability of the sector. Based on the USAID NGO Sustainability Index 2011, 87% of the funding of CSOs came from external donors⁷. Such a ratio in financing portfolios indicates weak financial sustainability and high dependence on one specific source of financing, which is also likely to scale down in the next years. Exploring domestic opportunities for fundraising is the most challenging exercise for public authorities and their CSO counterparts. It will ensure that the sector does not deteriorate and stays a thriving and reliable partner for the government in facing pressing social issues in Moldova, ensuring accountability of decision-making and participation in policy-making.

General Objective 2. consists of several specific objectives: encouraging participation of citizens and private sector in supporting civil society; strengthening access and participation of civil society in implementation of state policies through social contracting; creating mechanisms for state support to CSOs; and, finally, improving transparency of the sector through better reporting procedures.

2.1.1. Ensure the right to directing a part of the income tax (2%) of individuals and legal entities to noncommercial organizations holders of public benefit status.

The Strategy provides for directing part of the income tax in the amount of 2% by individuals and legal entities to non-profit organizations with public benefit status as the first suggestion under this General Objective. This financing mechanism can be considered as a potential supplementary measure to support CSOs in the countries of transition where private philanthropy is not well developed yet, as is the case of Moldova. Similar mechanisms have been in place in Hungary,

⁷ USAID NGO Sustainability Index:

http://transition.usaid.gov/locations/europe_eurasia/dem_gov/ngoindex/reports/2011/2011CSOSI_Index_complete.pdf

Slovakia, Poland and other Central and Eastern Europe countries that can provide useful lessons to help Moldovan stakeholders to develop an effective mechanism.

The initiative has been long discussed with the local stakeholders and challenges and opportunities of possible implementation are well described in the fellowship report by ECNL's fellow Andrei Brighidin *The Percentage designation based on the Hungarian Model: can it make a difference in Moldova?* According to the research, there are several challenges in implementation, for instance, in Moldova unlike in other countries income tax is collected by local governments. The report tries to address these issues through drawing recommendations for Moldovan authorities and CSOs.

As Moldovan CSOs stay committed to continue advocacy with the Government on developing and implementing the mechanism in nearest future, (according to the Action Plan of the Strategy it can happen already in 2013), it will be important to provide support to this effort to ensure that all stakeholders understand importance, challenges and opportunities of the mechanism and to secure sufficient level of political will and commitment to develop a meaningful and practical mechanism of financing for CSOs. These activities are envisioned under the Action Plan of the Strategy to be implemented in 2013.

2.1.2. Ensuring more efficient donation deduction mechanism and extending the mechanism to physical persons

The Strategy also addresses possibilities of creating a more favorable fiscal environment for CSOs through developing legal amendments for improved tax deduction mechanisms on donations and in order to provide incentives for private giving.

At the moment deductions on donations are regulated by the Law on Philanthropy (adopted in 2002) and Explanatory Note number 849 on confirmation of donations on charitable purposes and sponsorship (1998). Due to recent amendments on regulation of public benefit status, which removed fiscal benefits previously attributed specifically to organizations with the public benefit status, and changes to Article 52 of the Tax Code, there are new opportunities for filing requests for income tax deductions by physical and legal persons. According to Article 36 of the Tax Code, the deductions are now available to physical or legal taxpayers in the amount of up to 10% of taxable income in case the donations were given for charitable purposes or for donation to any registered noncommercial organization in possession of the special certificate from Tax Inspectorate.

As implementation of these tax law provisions was not successful in the past, it will be important to ensure that the processes of receiving the certificate and requesting tax deduction are clearly



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outlined both for CSOs and fiscal authorities, as well as necessary changes are made in the tax forms, which is anticipated by the Action Plan already this year.

2.1.3. Eliminating the risks of holding economic activities provided that incomes are channeled according to statutory provisions

And 2.1.4. Capitalizing social entrepreneurship and instituting corresponding tax benefits

While income generating activities are not widely spread among Moldovan CSOs, economic activities and social entrepreneurship are gaining increased importance as an additional source of income and are properly recognized in the policy document.

Among the reasons why economic activities may not be that widely carried out by most CSOs, could be complexity of filing reports with tax authorities for CSOs and acquiring exemption status for income tax. According to the Law on Public Associations and provisions on public benefit organizations, until January 2013 non-profit organizations with the public benefit status were exempt of paying income tax on generated income in case the raised funds were attributed to statutory purposes of the organization. This provision was changed in July 2012, when fiscal benefits were extended to any noncommercial organization in possession of a special certificate from the Ministry of Finance.

According to the Action Plan of the Strategy, an explanatory note is to be developed to ensure that there is clear cut guidance to fiscal authorities in terms of CSOs economic activities and applicable tax benefits. In addition, the Action Plan includes measures for developing an enabling legal framework for social entrepreneurship as a specific form of CSOs engagement in economic activities.

2.2 Strengthening access and participation of civil society in implementation of state policies through social contracting

The Strategy stays abreast of the ongoing developments in the area of social service provision by CSOs and includes clear measures on developing the social contracting mechanism that is to be launched and promoted in the years 2013-2015.

As provided by the Law on Social Services(2010), CSOs can be contracted by public authorities to provide services in the social area. Moldova, thus, is among regional pioneers in opening opportunities for non-state service providers to implement social services as contracted by the state.



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Similar mechanisms have either been recently adopted or are being developed in other countries of the NIS region, e.g. Ukraine, Kazakhstan, Kyrgyzstan, Belarus.

In the recent years the Government developed a comprehensive legal framework for contracting social services, which now needs to be put in practice. In 2012 the Ministry of Labor, Social Protection and Family with support of CSO stakeholders continued its work in promoting contracting of social services by non-state actors through adopting the Law on Accreditation of Social Services and supporting Regulation on creating and functioning of the National Accreditation Council for the Social Service Providers. These legal documents establish the framework for quality control and accreditation of social service providers, as well as their evaluation and monitoring of implementation.

Simultaneously, a cross sector group established at the Ministry continues working on developing regulations for the specific mechanism and procedure for contracting. According to Action Plan of the Strategy the mechanism of contracting non-state actors to provide social services will be implemented already in 2013.

2.3. Creating mechanisms for state support to CSOs

Importantly, the Strategy highlights significance of public financing to the CSOs sustainability through recognizing the need to harmonize existing public financing policies and examining additional institutional mechanisms for supporting CSOs. In the times of general economic austerity, this is a forward looking initiative that reflects government's commitment for support of the sector and activities included in the Action Plan contribute to implementation of this intention.

At the moment there are three examples of direct state support to CSOs through the grants program of the Ministry of Youth and Sports, the Ministry of Culture and the Environmental Fund of at the Ministry of Environment. The existing grant mechanisms could be further improved in terms of the transparency and accountability of the process of grant making and monitoring of grants implementation, which is among planned activities under the Action plan in 2013.

Furthermore, the Strategy foresees possibilities for introducing innovative financing mechanisms for CSOs, which could focus on supporting CSO institutional development or project activities. Similar state financing mechanisms function in Albania, Azerbaijan, Croatia, Estonia and Hungary in a form of a state Fund for CSOs. If prior assessment on possibility of introducing such a mechanism in Moldova, will prove its feasibility it will be important to consider sources of income, modalities of funding and methods of distribution of financing to CSOs.

2.4 Promoting transparency and accountability of civil society

To support CSOs in their operations and improve accounting and financial reporting requirements, the Strategy envisions assessment of the existing international practices in standards for CSO accounting and developing recommendations for improving CSO specific standards in Moldova in 2013-2014. This action will improve overall transparency and financial management practices for Moldovan CSOs.

At the moment the Accounting Law in Moldova does not include specific provisions on accounting and reporting by non-profit organizations. In practice, it means that there are inconsistencies and broad interpretation by accountants and controlling authorities of the CSO accounting obligations. In 2010 the Ministry of Finance issued the Methodological Instructions on CSO accounting to provide guidance to CSO accountants and state fiscal authorities. However, according to both CSOs and accounting professionals, the document could benefit from further amendments as addressed in the Action Plan of the Strategy.

General Objective 3. Developing active civic spirit and volunteering

This General Objective addresses both the issue of civic education and volunteering. Below, we provide an overview of objectives and actions specific to volunteering.

The Strategy recognizes the importance of volunteering for the community. It includes a list of specific objectives to support implementation of the Law on Volunteering which was adopted in 2010, it highlights the issues that remain to be addressed to further the volunteering framework and includes measures for promotion of volunteering.

The Law established the legal framework for volunteering, identified rights and obligations of a volunteer and included numerous benefits to promote volunteering practices. Several activities were undertaken to ensure the law is functional: an implementing regulation ON WHAT was adopted in 2011 and currently the Ministry of Youth and Sports together with the Secretariat of the Volunteering Coalition in Moldova TDV works on regulation to establish a certification body for institutionalized volunteering practices. Further mechanisms supporting implementation of the law, e.g., granting labor record for volunteering, are to be developed in 2013 and 2014 according to the Action Plan. In addition, the Action Plan includes steps to create a national level infrastructure for volunteering, database of volunteers and establishing regular events for volunteering promotion.



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The Strategy will certainly help towards the goal of promoting and strengthening volunteering. However, all of these aspects create an extremely elaborated and comprehensive legal regulatory framework for volunteers and their host organizations. Therefore, it is important to ensure that further regulations do not go beyond the scope of the law and do not include additional burden on either host organizations or volunteers. The specific implementation of the Action Plan should be monitored in this area more closely to help identify possible challenges as the process moves forward and ensure they are timely and appropriately addressed.

4. Implementation, Monitoring and Evaluation of the Strategy

Among the main challenges and opportunities for ensuring effective implementation of the Strategy remain monitoring and evaluation. Through putting in place monitoring mechanisms the Government and civil society can evaluate achievements and areas for improvement in Strategy's implementation.

Most objectives of the first Strategy for CSO Development have not been accomplished. Only few corresponding activities of the draft Action Plan prepared by the State Chancellery to support the previous Strategy 2008-2011 were implemented by respective Ministries through their internal planning and completed as envisioned.

Among the measures to support successful implementation of the new Strategy, the Government is given a task of establishing a structure responsible for cooperation with civil society and developing corresponding draft laws within four months of the publication of the Strategy (by May 2013). The envisioned structure, consisting of government and civil society representatives, will be responsible for coordination and monitoring of the Strategy implementation and reporting to Parliament by March 31 of each year. Additional checks and balances will be secured through independent reports on the implementation prepared by CSOs.

Based on the learning experience of the past, the Strategy ensures its implementation and evaluation through:

- Including the Action Plan with clear division of responsibilities, indicators and the timeline;
- Assigning Parliament's Committee for Legal Affairs, Appointments and Immunities to monitor implementation of the Strategy ;



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- Designating a joint structure responsible for annual reporting on implementation of the Strategy by March 31 each year;
- Providing opportunity for CSOs to prepare independent reports on implementation according to each Objective;
- Conducting annual studies on situation of civil society in Moldova.