



**Upholding Sustainability of Voices
for Human Rights –
A Study on the Sustainability of Human Rights
and Accountability Watchdog NGOs in ten new
member states of the European Union**

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This document is a joint project of European Center for Not-For-Profit Law (ECNL - Hungary), Civil Society Development Foundation (CSDF – Hungary), Center for Philanthropy (CfP – Slovakia) and Political Capital Policy Research & Consulting Institute (PC – Hungary).

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Executive Summary

Human rights and accountability watchdog (HRAW) NGOs¹ are facing an uncertain future in formerly communist countries of the European Union. The project “***Upholding Sustainability of Voices of Human Rights***” was conceived in response to this situation. The overall goal of the project has been to improve the longer-term sustainability and strengthen the potential of HRAW NGOs to access EU funds and alternative resources. This study aims to (a) present a comprehensive picture of the situation of HRAW NGOs in the 10 new member states (NMS) including their social, political and funding environment; (b) serve as a tool for advocacy that will be undertaken by the HRAW NGOs and other stakeholders; and (c) inform domestic and EU-level policy makers of the key issues that concern HRAW NGOs at a time when the relevance of their work is increasing within the borders of the European Union.

The study demonstrates that the EU has serious human rights and governance problems within its borders. Right-wing extremism; lack of integration of immigrants; high levels of corruption; domestic violence and discrimination of women; and human trafficking are but a few issues that require long-term systemic interventions across Europe. While problems persist across the continent, however, both decision-makers and the public at large in **the NMS are less ready to effectively address human rights problems** than their Western counterparts. In the NMS, there are significantly lower levels of social capital (and thus trust, tolerance and solidarity among the public); there is less sensitivity and therefore, lesser political pressure from the public concerning human rights violations; civil society is weaker and more politicized; and as a result, NGOs tackling human rights issues are less sustainable.

The EU has a multi-faceted legal and institutional framework to safeguard and monitor human rights in the member states and acceding countries. By-in-large, however, **EU institutions are much stronger in demanding human-rights improvements beyond the borders of the EU than within their own borders**. This is reflected also in its funding policies, through which it dedicates ten times as much funding to promote human rights in third countries than in the member states; in fact, its funding planned for support of fundamental rights in the member states is among the smallest allocations in the prospective budget for 2014-2020.

As illustrated by this study, **NGOs fulfill a critical role in dealing with human rights problems in the EU**. This includes different aspects: (a) raising awareness of human rights and good governance problems nationally and at the EU level; (b) safeguarding human rights and the rule of law at the member state level and (c) helping to devise effective policies, mechanisms and tools to address those problems. NGOs have a long-term horizon for fulfilling their missions and as such, can effectively contribute to the *changing of social attitudes* that will take more than the four years of a government's term.

Despite all the challenges **HRAW NGOs in the NMS have demonstrated successes and represent an important untapped potential** in addressing pressing human rights concerns in all the countries concerned. This is especially true in areas where state authorities are lagging behind (e.g. corruption, domestic violence, discrimination). Most of the HRAW NGOs in the surveyed countries lack strong, direct ties to citizens; however, **they still have the ability to influence decision-making and set the agenda for public discourse**. HRAW NGOs have managed to alter political processes and mobilise the public through a wide range of methods from strategic litigation to social media campaigns.

In order to continue fulfilling this role, **HRAW NGOs need funding that enables them to address ongoing problems and does not render them dependent on their national governments**. HRAW NGOs have special funding needs compared to other sectors of NGOs. These include the need to (a)

¹ The terms NGO and CSO will be used interchangeably in this study. For a definition of HRAW NGOs, see Section 1.1.2 below.

receive regular and long-term support to meet ongoing needs: fighting prejudices is a long-term project; (b) receive “core funding” or funding for their ongoing activities, as opposed to projects; (c) have flexibility to address emerging situations; and (d) to be able to conduct independent research and freely advocate towards the government or any public or private stakeholder that infringes on human rights. These criteria make it difficult for them to sustain their organizations as the currently available funding sources in the NMS do not meet these conditions.

Government funding as well as company gifts are often compromising; self-generated income is usually not a main source of sustainability for such organizations. Private foundations and individual donations are not sufficiently available due to the underdeveloped level of philanthropic culture. Meanwhile, the main source of funding that has been available for the past two decades, i.e. foreign private and public funds have drastically diminished after the EU accession. This presents the central strategic question for the HRAW community of how to address the increasing gap in funding their core missions.

The EU has a unique role in funding HRAW NGOs within its borders. While not appropriate for all the activities of all the organizations, EU funding would enable HRAW NGOs to challenge their own governments without needing to rely on them for funding; and at the same time it would underscore the importance of human rights as an integral part of the European value system. The country studies revealed that despite setbacks, funding sources directly financed from Brussels (as opposed to EU funds channelled through the national governments) are seen among the most feasible potential funding opportunities. However, advocacy work is needed to ensure that EU funding comes closer to meeting the needs of HRAW NGOs.

Current funding mechanisms and procedures of the EU hinder HRAW NGOs in accessing or effectively utilizing EU funds. There is relatively little funding available for human rights NGOs working within the EU, and with existing funding there is a bias toward funding NGOs from the EU 15 over the EU 12. In addition, the funding procedures and rules for managing the projects are a deterrent for many NGOs. HRAW NGOs from the NMS, are especially sensitive to the administrative and management burdens, due to the lower level of organizational capacity they generally possess.

At the same time, **there is a window of opportunity to persuade the EU to improve conditions for funding for human rights within its own borders.** The EU is currently preparing the Multiannual Financial Framework (MFF), its next budget for 2014-2020, which is expected to be adopted by the end of 2012, while the specifics of funding programmes will be developed throughout 2013. Parallel, funding rules and procedures are being revised through the Financial Regulations and its Implementing Rules. There are ample advocacy opportunities in both processes.

However, HRAW NGOs are not well organized to be able to advocate at the EU level. Most HRAW NGOs in the NMS are hardly aware of the EU policy processes that affect them. This is related also to the fact that there is no strong representation of HRAW NGOs at the European level, whereas experience clearly suggests that the only effective way for civil society actors to influence EU policy-making is through a pan-European representation of their interests.

The Study concludes with the following key recommendations:

- **HRAW NGOs in the NMS need to establish a form of cooperation targeted at advocacy and lobbying at the EU level.** In lack of an appropriate existing network, this need could be addressed through establishment of a new network. Such network should have a **broader mission than “just” the sustainability of its members;** it should aim to contribute to the fulfillment of basic values that serve a very timely agenda in Europe: good governance and accountability.
- Advocacy work with ongoing presence in Brussels should be oriented towards (a) increasing the amount of EU funding accessible to NMS NGOs and (b) improving the rules of financing

NGOs. At the same time, investment in the advocacy capacity of the Network should **serve the longer-term purpose of positioning these NGOs as powerful players in the European scene**. With a strengthened presence, more ambitious goals are also feasible in the longer term; there are good chances that the agenda of a relevant and legitimate network will be considered in the European processes.

- **However, the EU is not a panacea. There is a critical need to – still – invest in boosting private philanthropy in support of human rights.** After all, human rights in Europe need to be upheld by the society as such rather than a few organizations. Strategies to develop domestic resources can include lobbying with national governments for measures that lead to increased philanthropy; creating innovative mechanisms to generate support from the private sector; and boosting the capacity of NGOs to mobilize private philanthropic resources (foundations, individuals) and sources of income generation.
- A European network of the HRAW NGOs can serve as a catalyst to inspire, facilitate and assist these activities. In fact, the Network would help ensure that **HRAW NGOs take up the challenge of their own sustainability as proactive and responsible actors** rather than waiting for a donor or the EU to take care of them. This was seen as a significant step that is needed to overcome the general scepticism of these organizations related to domestic philanthropy. Ultimately, support from those within society who value human rights and independent thought is the funding source that not only meets the needs of HRAW NGOs but also provides them with the legitimacy and credibility to stand up against their governments or even the general public in defense of the most valuable component of European identity.

I. Introduction and Summary of Key Findings

I.1. Introduction

Human rights and accountability watchdog (HRAW) NGOs² are facing an uncertain future in formerly communist countries of the European Union. These NGOs played a crucial role in promoting democracy and human rights in the new member states (NMS) over the past 20 years. Today, funds from foreign grant-making institutions, their primary source of financing, are drying up. Contributions from local donors are negligible and NGOs are generally hesitant to use government money. What's more, they lack the capacity to manage EU grants and do not have the wherewithal to conduct fundraising activities locally.

The project "***Upholding Sustainability of Voices of Human Rights***" was conceived in response to this situation. The overall goal of the project has been to improve the longer-term sustainability and strengthen the potential of HRAW NGOs to access EU funds and alternative resources. The project conducted a study in order to gain a better understanding of the current funding environment of the HRAW NGOs, especially in regard to the potential of EU-level funding programs; and to explore existing philanthropic practices and opportunities to raise funds and generate income at the country level. The Study was initially conducted in 2009-10, and updated in 2011-12. As a result of the initial research, the initiative to create a regional network of HRAW NGOs emerged, as a means to join forces in advocating for increased access to resources from the EU, and to promote domestic best practices in resource generation across the countries of the region.

The aim of this report is three-fold:

- a) To present a comprehensive picture of the situation of HRAW NGOs in the 10 new member states including their social, political and funding environment at the national and EU levels;
- b) To provide recommendations for a long-term advocacy strategy and serve as a tool for advocacy that will be undertaken by the HRAW NGOs and other stakeholders; and
- c) To inform domestic and EU-level policy makers of the key issues that concern HRAW NGOs at a time when the relevance of their work is increasing within the borders of the European Union.

I.1.1. Project Team and Methodology

The Project Team consisted of the representatives of a consortium led by the **European Center for Not-For-Profit Law** (ECNL - Hungary), in partnership with the **Center for Philanthropy** (CfP Slovakia), the **Civil Society Development Foundation** (CSDF - Hungary), and the **Political Capital Policy Research & Consulting Institute** (PC - Hungary).

The Project Team devised a methodology in which three different main strands of research were conducted parallel: a socio-political research to demonstrate the relevance of HRAW NGOs and to help understand the context in which they operate in the NMS; a country-based research to explore the funding and sustainability situation of HRAW NGOs in each of the ten countries; and a research at the EU level to identify and better understand the funding sources available for HRAW NGOs specifically within the European Commission. As part of the research, ECNL conducted a "flash survey" among

² The terms NGO and CSO will be used interchangeably in this study. For a definition of HRAW NGOs, see Section 1.1.2 below.

HRAW NGOs in the NMS, via an internet survey and skype interviews. Altogether close to 50 organizations provided feedback and ECNL used the results also in its advocacy work.³

Upon completing the initial draft of this Study, a peer-review was conducted by the **Project Advisory Group (PAG)**, comprised of human rights experts from the region⁴, as well as NGO representatives who took part in national meetings convened by the PAG members. PAG members also contributed significant time in reviewing country chapters of this Study. We would hereby like to thank the PAG for its valuable comments and contributions to this Study as well as the Project as a whole.

Based on the initial findings, the Project Consortium recommended the **initiation of a network of HRAW NGOs in the region** who would be able to represent interests of these organizations vis-à-vis European and domestic stakeholders. In its second year, therefore, the Project engaged in facilitating the formation of such network and ensuring that it has a clear understanding of what could be accomplished through its advocacy work. For details on this please see the Advocacy Paper (Annex V), as well as Chapter VI of this Study.

In addition, the Project engaged in **advocacy activities** from the beginning and conducted those parallel with the research and network facilitation. Advocacy included submission of responses to public consultations on the financing procedures concerning EU programs and the programming of the Fundamental Rights and Justice program; developing and maintaining relations with key stakeholders from the European Commission, the European Parliament, European CSO networks and others; working with the Hungarian Presidency and EuropeAid in addressing key issues for funding of CSOs, among others. For details on these activities please see Annex V: Advocacy Paper.

I.1.2. Definitions

Human Rights, Accountability and Watchdog NGOs (HRAW NGOs). The Project Team discussed in detail the understanding of this term, originally put forward by OSI. The general agreement was that of a relatively broad understanding of two main types of organizations to be included in the research. These are nonprofit, nongovernmental organizations:

- **Protecting and promoting human rights;** human rights understood both as protecting “classical” freedoms and fighting against discrimination, and more broadly to include areas that may overlap with social welfare, health or education, e.g. child rights, disability rights, patients’ rights etc.
- **Promoting and ensuring accountability in good governance and democratic development:** mainly concerning the areas of corruption, media, constitutional and budget reforms etc ., again understood broadly to include not only strictly watchdog type organizations (like Transparency International) but also e.g. independent public policy think tanks and smaller NGOs specialized in certain policy areas key to democratic development (e.g., education reform).

Concrete organizations from each country are included illustratively in Chapter III, where some of the key NGOs addressing the major human rights and governance issues identified in each country are listed.

It is important to note that in this Study, the term “human rights” is to be interpreted to include also “good governance” and “democratization”, unless those are separately mentioned.

³ See more in Chapter IV. The document is available at <http://www.ecnl.org/index.php?part=14news&nwid=273>

⁴ PAG members: Kapka Panayotova, Bulgaria; Ionut Sibian, Romania; Jiří Kopal, Czech Republic; Katarzyna Batko-Tołuć, Poland and Sergejus Muravjoas, Lithuania.

New member states (NMS). While there have been 12 new member states that acceded the EU since 2004, this Study focuses on the 10 countries of Central and Eastern Europe: Bulgaria, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, Slovakia and Slovenia.

Sustainability. NGO sustainability is a complex concept.⁵ Nevertheless, consortium members agreed that while sustainability has more than one dimension, for the purposes of this study, research will focus on the aspects related to financial sustainability. Therefore, other elements that are key to organizational sustainability, including e.g. clarity of mission, effective leadership, ability to balance stakeholder interests and similar, have been only marginally assessed.

I.1.3. Overview of the Study

The study consists of five main chapters beyond the introduction. *Chapter II* sets out the European policy, legal and institutional framework for Human Rights, in which the member states and NGOs operate, in order to provide a basic understanding of the principles, possibilities and limitations involved. *Chapter III*, on the Human Rights context in the New Member States analyses the situation and relevance of HRAW NGOs from a socio-political point of view with the intention also to provide a basis for advocacy efforts. This is followed, in *Chapter IV*, by a summary analysis of ten country reports that were developed to examine the possibilities of HRAW sustainability and the funding situation of HRAW NGOs in each of the ten NMS. *Chapter V* is devoted to the EU financing framework, in which the study provides a description as well as analysis of the EU funding instruments currently available for HRAW NGOs, and the ongoing processes of their reform, with a view to developing an advocacy strategy towards these. Finally, in *Chapter VI* we outline the key recommendations for advocacy that HRAW NGOs may undertake in order to promote and uphold the sustainability of the voices for human rights in the new member states.

While each chapter summarizes its key findings, the study also provides a summary overview of key findings and recommendations that were drawn from the analysis of all of the chapters, in *Chapter I* (see below). These are core messages that the project team proposes to communicate towards the various stakeholders and that could form the backbone of an advocacy strategy.

The study also includes six *Annexes* that contain a range of background analyses that were produced during the two-year research. These provide useful information by themselves. Annexes include:

- a more detailed description of key human rights issues in the NMS;
- additional illustrations and information related to the work of HRAW NGOs;
- a compilation of 10 country reports, analyzing in detail the sustainability situation of HRAW NGOs in each country;
- an Advocacy Paper that elaborates on the information related to EU financing and envisions the strategies for advocacy to improve the situation, as well as
- a list of potential advocacy tools that could be used by the NGOs.

⁵ See Chapter IV.4. Current definitions of sustainability tend to emphasize “soft” elements of organizational sustainability such as leadership and culture over the “hard” ones such as funding.

I.2. Summary of Key Findings

I.2.1. Relevance of HRAW NGOs

The EU has human rights problems within its borders.

Although we like to think that „developed” countries have no systemic human rights violations, there are in fact major setbacks concerning fundamental rights across the EU. The country reports from the ten new member states (NMS) in this study reveal major difficulties with respect to ethnic tensions and discrimination, corruption, gender equality and domestic violence, among others. The recent years have seen even fundamental constitutional principles of democracy, such as the rule of law and the independence of the judiciary being eroded in a new member state – Hungary. Although Western European countries were not included in the study, many of these issues are clearly not unique to the NMS. Radical right wing groups and political parties are gaining ground across Europe. (See for example Annex 2) Most Western European countries have a serious problem with integration of immigrants; high levels of corruption and endemic tax evasion were key contributors to the Greek debt crisis. Women in Western Europe are struggling against domestic violence and discrimination, just like in their counterparts in the NMS. Human trafficking is a serious human rights violation that affects the entire continent – Eastern Europe as transit countries and Western Europe as target countries. In short, there is no shortage of human rights issues that *require long-term systemic interventions* across Europe.

The situation in the NMS is direr in many respects.

While problems persist across the continent, the analysis in this study points out that both decision-makers and the public at large in the NMS are less ready to effectively address human rights problems than their Western counterparts. (see Chapter III) In the NMS, there are significantly lower levels of social capital (and thus trust, tolerance and solidarity among the public); there is less sensitivity and therefore, lesser political pressure from the public concerning human rights violations; civil society is weaker and more politicized; and NGOs tackling human rights issues are less sustainable.

The EU should do more to address the HR situation inside its borders.

The EU has a multi-faceted legal and institutional framework to safeguard and monitor human rights in the member states and acceding countries. Traditionally, this has been focused on rectifying individual cases of human rights violations, which fulfilled a crucial role in upholding the rule of law in European countries, but did little to assist governments in tackling systemic challenges over the longer term. More recently, as the EU began to realize the gravity of certain issues, such as xenophobia and integration, overarching policy frameworks (e.g. Stockholm Programme) as well as institutions helping to develop more effective policies (e.g. Fundamental Rights Agency) have also emerged. By-in-large, however, EU institutions are much stronger in demanding human-rights improvements beyond the borders of the EU and tend to overlook problems within their own borders. (The case of Hungary, where legislation is being challenged by the European Commission for violating EU law is the first exception to this trend; however, it reflects an extreme situation and the scope of issues called into question is narrow compared to the gravity of violation of fundamental rights by the current Hungarian government.) The lack of emphasis on human rights within the EU is reflected also in its funding policies, through which it dedicates ten times as much funding to promote human rights in third countries than in the member states (see Chapter V). In fact, *its funding planned for support of fundamental rights in the member states is among the smallest allocations in the prospective budget for*

2014-2020. This neglect may stem from a lack of political will or simply a desire to avoid getting dragged into domestic wrangling. Yet lingering human rights problems may undermine the success of the central goals of the EU laid out in the Lisbon agenda and Europe 2020, including economic competitiveness, job creation and fostering knowledge based economies.

Governments especially in the NMS have demonstrated little competence in tackling human rights issues

The study illustrates that despite the amounts already spent on government programs to address some of the key issues (corruption, Roma integration, gender equity) the problems not only did not go away but have in fact exacerbated in the recent years (e.g. the rise of grass-root support to far-right parties and increasing violence associated with these ideologies). This can in part be attributed to the financial crisis and ensuing economic downturn but it also signals that deep-rooted causes of such behavior have not been successfully addressed over the two decades of the “transition”. While governments of the NMS have successfully put in place laws and institutions of a pluralistic democracy, they have not been as successful in nurturing a culture of tolerance and the rule of law.

NGOs could contribute significantly to solving the problems.

As illustrated by this study, NGOs fulfill a critical role in dealing with human rights problems in the EU. This includes three different aspects: (a) raising awareness of human rights and good governance problems at the level of the EU as well as in the member states, (b) safeguarding human rights and the rule of law at the member state level and (c) helping to devise effective policies, mechanisms and tools to address those problems, e.g. by campaigning to promote values of tolerance and transparency, piloting innovative projects, providing ongoing services such as legal aid, providing independent policy analysis and so on. Unlike most governments, NGOs have a long-term horizon for fulfilling their missions and as such, can effectively contribute to the *changing of social attitudes* that will take more than the four or eight years of a government’s term. HRAW NGOs in the NMS have demonstrated successes in all of these areas and represent an important untapped potential in addressing pressing human rights concerns in all the countries concerned (see Chapter III).

I.2.2. Current Funding Situation

HRAW NGOs need funding that enables them to address ongoing problems and does not render them dependent on their national governments.

The study demonstrates that HRAW NGOs have special funding needs compared to other sectors of NGOs. (See Chapter IV) These include the need to (a) receive regular and long-term support to meet ongoing needs: fighting prejudices, whether through litigation or education is a long-term project; (b) receive “core funding” or funding for their activities rather than the typical projects: it is hard to demonstrate concrete results within one or even 2-3 years in case of lobbying or litigation work; (c) have flexibility to address emerging situations – they often have to react on issues that are not planned or foreseeable; and (d) to be able to conduct independent research and freely advocate towards the government or any public or private stakeholder that infringes on human rights. These criteria make it difficult for them to sustain their organizations through the typical sources available for NGOs in the NMS.

Currently available funding sources in the NMS do not sufficiently meet the needs of HRAW NGOs.

Based on the ten country study of currently available funding sources (see Chapter IV and Annex IV) we can conclude that while there seems to be enough money around for NGOs, the special funding requirements are not sufficiently met by the sources available to HRAW organizations. Government funding as well as company gifts are often compromising; self-generated income is usually not a main source of sustainability for such organizations. The two main types of funding that HRAW NGOs typically rely on for sustainable and independent financing in the developed countries: private foundations and individual donations are not sufficiently available in the NMS due to the underdeveloped level of philanthropic culture. Meanwhile, the main source of funding that has been available for such NGOs over the past two decades, i.e. foreign private and public funds have drastically diminished after the EU accession. This leaves most HRAW NGOs in a vacuum and in a dilemma as to what extent they can or should thwart their missions to meet funding expectations of the sources that are still available.

I.2.3. Role of the EU

The EU has a unique role in funding HRAW NGOs within its borders.

The European Union has committed to protect and promote human rights in all its member states through a number of instruments described in the study. (Chapter II) It is well-positioned to fund efforts and initiatives not only by the governments of the member states but also those of civil society in order to fulfill that commitment. In fact, the EU is uniquely posed to provide funding that would meet the needs of HRAW NGOs in the member states for regular and independent financial sources. While not appropriate for all the activities of all the organizations, EU funding would enable HRAW NGOs to challenge their own governments without needing to rely on them for funding; and at the same time it would underscore the importance of human rights as an integral part of the European value system. The country studies revealed that funding sources directly financed from Brussels (as opposed to EU funds channelled through the national governments) are seen among the most feasible potential funding opportunities (see Chapter IV).

Current funding mechanisms and procedures of the EU hinder HRAW NGOs in accessing or effectively utilizing EU funds.

The EU currently funds NGO activities in a number of areas that promote pan-European objectives, which include to some extent human rights objectives as well. However, there are several factors that hinder the access of HRAW NGOs from the NMS to take advantage of such funding. Firstly, there is a bias toward funding NGOs from the EU 15 over the EU 12. It is notable that six years after the EU accession, NGOs from the NMS still receive a considerably lower amount of the funding than their peers from the "old" EU, as demonstrated by recent research (see Chapter V). Second, there is relatively little funding available for human rights NGOs working within the EU. Thirdly, even in the calls for proposals where human rights NGOs would be eligible, the funding procedures and rules for managing the projects are so burdensome that many NGOs do not undertake to apply for such funding. These rules affect all NGOs but it seems that NGOs from the NMS, and especially HRAW NGOs from the NMS, are the most sensitive to the administrative and management burdens, due to the lower level of organizational capacity they generally possess.

HRAW NGOs are not well organized to be able to advocate at the EU level.

The research revealed that most HRAW NGOs in the NMS are hardly aware of the policy processes that affect them. While some NGOs are well connected with European networks in their respective fields (e.g. racism or disability rights), they usually take part in implementing rather than influencing policies. Furthermore, practically none of the HRAW NGOs knew of or took part in the ongoing discussions relating to the future allocation of the EU budget, including any allocations towards HRAW NGOs, nor in the revision of the rules of funding from the European Commission. This is related also to the fact that there is no strong representation of HRAW NGOs at the European level. While there are a few European networks in which human rights NGOs are represented, these are not as visible and well-connected as the networks in many other fields (e.g. social services, environment, or international development). (See Chapter V and Annex V).

There is an opportunity to persuade the EU of the need to reconsider funding for human rights within its own borders.

The EU is currently preparing its next Financial Perspectives, the Multiannual Financial Framework (MFF) that determines priorities of EU spending over the next budget period (i.e. 2014-2020). The European Commission has put forward its Communication on the Budget for Europe 2020⁶ and the European Parliament developed its proposals for amendments. The MFF is expected to be adopted by the end of 2012, and the DGs of the Commission will work to develop the specifics of their funding programmes alongside the process and throughout 2013. This is an opportune time for NGOs to educate the competent DGs of the need to dedicate targeted funding for the promotion and protection of human rights within its borders. Parallel, funding rules and procedures are being revised through the Financial Regulations and its Implementing Rules; another area where HRAW NGOs could play a stronger advocacy role.

I.3. Summary of Key Recommendations

HRAW NGOs in the NMS need to establish a form of cooperation targeted at advocacy and lobbying at the EU level.

Experience from the EU 15 clearly suggests that the only effective way to influence EU policy-making and decision-making processes for civil society actors is through **a pan-European representation of their interests that is seen as legitimate by the EU institutions and ensures an ongoing presence in the policy development processes**. HRAW NGOs from the NMS do not currently have such representation. Should they decide that EU level advocacy related to funding policies would be beneficial for them, they will have little choice as to whether establish such cooperation. This could initially be informal, but a presence in Brussels would be essential in order to be effective. Joining another, existing network could be an option in theory, but in practice the research revealed no network that would be oriented to promote Human Rights within the EU and the sustainability of these organizations. Therefore the recommendation of this Study is to address this need through establishment of a new network.

As a result of discussions with HRAW NGOs and other stakeholders it has also been crystallized that there should be a **broader mission for the Network than “just” the sustainability of its members**. Rather – through the increased sustainability of its members - it should aim to contribute to the

⁶ COM (2011) 500 final.

fulfillment of basic values that serve a very timely agenda in Europe: good governance and accountability. The Project recommends that the newly forming network develops a brand that reflects a broader vision related to human rights and governance; one which unites the approaches of HRAW NGOs from different countries and areas of EU civil society, and is well communicable to a range of different stakeholders.

Advocacy could be oriented towards increasing the amount of EU funding available to NMS NGOs and towards improving the rules of financing NGOs.

In terms of the advocacy work such Network may undertake, there are two key strategic directions:

- **Increasing the amount of funding available to HRAW NGOs from the NMS.** In the long term this could mean increasing the amount of funding available for human rights and good governance, a legitimate and needed demand. However, in the short term, because the EU budget allocations for this type of work are not set to increase, it would mean lobbying to improve the ratio of NMS NGOs receiving existing funding, which can be achieved through various strategies (e.g. awareness raising, special topics, targeted funding, increased marketing and assistance to NGOs etc.). It would be important to establish a realistic level of need of EU funding for HRAW NGOs in the region and establish the goal of meeting that need through the advocacy and lobbying efforts.
- **Improving the rules which govern distribution, management and reporting of EU funding.** This is related to the ongoing review of the documents regulating EU financial procedures, i.e. the Financial Regulation and its Implementing Rules. Improvements in this regard are possible and already happening; but change will be gradual and investment over a longer time is needed to push through all the demands. In addition, there is currently openness within the Commission towards increased flexibility in implementing the rules, which can be another strand in the advocacy strategy.

Advocacy with the EU is a long-term investment and should be led by a compelling vision.

While there is a realistic chance to improve the conditions for funding of HRAW NGOs, the organizing of a Network and the establishment of an EU officer post is not likely to lead to a fundamental change in the policy towards HRAW NGOs on part of the EU in the short term (1-2 years). However, the “return on investment” for the funders of such a position should be measured not (only) by the increase in the amount of funding available for HRAW NGOs.

Establishing an ongoing presence in Brussels representing the HRAW NGO community should **serve the longer-term purpose of positioning these NGOs as powerful players in the European scene.** With a strengthened presence, more ambitious goals are also feasible in the longer term – in policy first (i.e. a better understanding of the role of HRAW NGOs in maintaining core European values) and then in funding (e.g. to increase the amount of funding available or to designate a separate fund for HRAW purposes).

A better understanding of the role of HRAW NGOs will come about when seeing the impact of the network. Therefore, the **ultimate change to be expected is the achievement of a larger goal: full implementation of human rights and accountability and transparency at all levels of the Union.** Based on the experience of other EU-wide networks, if the mission is seen as relevant to the EU agenda, and there is enough legitimacy through a mandate from a pan-European membership, there is a good chance for the network to be supported by the EU and for its agenda to be considered in the European processes.

The EU is not a panacea. There is a critical need to – still – invest in boosting private philanthropy in support of human rights.

We are leaving the most important conclusion to the end: EU funding is not going to be a panacea. It would be an illusion to believe that the EU will ever provide funding that is enough, and accessible and flexible enough to serve the ongoing needs of HRAW NGOs in all the new member states. And even if it were, there can be principle reasons not to fully rely on it as a funding source. A key reason is that ultimately, **human rights in Europe need to be upheld by the society as such rather than a few organizations**. If this “ideal” state cannot eventually be reached in the new member states that will be a failure of the societies of these countries, and thus, democratic development of the countries themselves. Therefore it is of critical importance to promote and **encourage to the extent possible the development of domestic private philanthropy** that will cater for the needs of HRAW NGOs in the long term.

This effort will need to be led by the HRAW NGOs themselves. The initiatives can take several routes:

- Lobbying with national governments to institute policy and legislative changes that lead to increased philanthropy;
- Creating innovative mechanisms to generate private support from the corporate sector (e.g., pooling funds through an intermediary);
- Boosting the capacity of NGOs to mobilize private philanthropic resources (companies, foundations, individuals) and sources of income generation.

A European network of the HRAW NGOs can serve as a catalyst to inspire, facilitate and assist these activities. In fact, the Network would help ensure that **HRAW NGOs take up the challenge of their own sustainability as proactive and responsible actors** rather than waiting for a donor or the EU to take care of them. This was seen as a significant step that is needed to overcome the usual attitudes of these organizations which often questions the use of reaching out towards individual donors.

Based on the experience of Western Europe, private funding from those within society who value human rights and independent thought (whether through foundations or individual gifts or other means) is the funding source that not only fully meets the needs of HRAW NGOs but also provides them with the **legitimacy and credibility** to stand up against their governments or even the general public in defense of the most valuable component of European identity.

II. The EU Human Rights Framework

Deeper political and economic integration has meant that EU15 countries went through very similar social-political development processes over the past few decades, despite their diverse social, political and cultural bearings. Part of this process was improvements in human rights.

EU enlargement is an appropriate framework for transmitting the value for human rights to Eastern Europe – and strengthening it. This is an extremely important aspect of EU accession, since human-rights violations were a hallmark of state socialism.

The EU can successfully promote fundamental rights among member states and beyond. Nevertheless, the EU's scope of action in this area is very limited; it is therefore crucially important that the member states themselves take the initiative.

“The European Union sees human rights as universal and indivisible. It therefore actively promotes and defends them both within its borders and in its relations with outside countries. At the same time, the EU does not seek to usurp the wide powers in this area held by the national governments of its member states. The focus of the Union’s human rights policy is on civil, political, economic, social and cultural rights. It also seeks to promote the rights of women and of children as well as of minorities and displaced persons.”¹

Nonetheless, **EU decision-makers do not always pay adequate attention to strengthening human rights and monitoring violations within the member states. They often regard these issues as a problem of the past.** A number of human-rights issues remain unresolved in the NMS. The severity of these problems has been exacerbated by the financial crisis, which has been accompanied by a rise in discrimination and xenophobia, domestic violence and corruption. However, with further states from the Balkans soon becoming members of the EU as well, along with internal turmoil, renewed conflicts and constitutional concerns surfacing in other countries (e.g. Hungary) as well, human rights issues are occasionally brought forward. While EU leaders are aware of discrimination against different “target groups” in member states (immigrants, women, disabled people, homosexuals),⁷ the way they handle these challenges and implement their human-rights agenda can be seen as problematic. A reason for the wide “gap” between EU member states is that each government approaches these issues on a completely different level.

Fundamental human rights compose a significant part of EU programs, but their implementation frequently lags behind. The European Union has established institutional guidelines and policies on human rights for its members and for other countries. These policies are constantly evolving.

Within the European Union the **EU Charter of Fundamental Rights** is the basic document that outlines fundamental rights protected in Europe. It is part of the Lisbon Treaty, which came into effect on December 1, 2009.⁸ The Charter’s position in the structure of basic EU law demonstrates the importance of human rights for the member states. Its legal effect elevates it to the level of other treaties: it is a legally binding document on the EU institutions and national governments, though for the latter only in regard to implementing the EU law. The Charter is based on the rights and freedoms enshrined in the European Convention on Human Rights and it uniquely brings together all personal,

⁷ Human Rights in the EU: the Charter of Fundamental Rights. Research Paper.

<http://www.parliament.uk/commons/lib/research/rp2000/rp00-032.pdf>

⁸ The Lisbon Treaty. http://europa.eu/lisbon_treaty/index_en.htm

civic, political, economic and social rights enjoyed by EU citizens and residents. It is supported by the implementation strategy adopted in 2010.

The Charter contains 54 articles divided into seven titles. The first six titles deal with substantive rights: dignity, freedoms, equality, solidarity, citizens' rights and justice. The last title deals with the Charter's interpretation and application.

The European Court of Justice is responsible for implementing the Charter, but the consequences for violations are usually political, not legal. While Treaty's goals have begun to be realized, opinions on the Treaty itself are divided. Some observers say the Charter is politically weak – a consequence of too much compromise.⁹

The Charter's potential for long-term success remains unpredictable, partly because of the economic crisis. The Lisbon framework focuses on labour and employment rights (the goal of creating dynamic, knowledge-based economies with better working conditions is linked to the improvement of basic rights in the workplace); just a small part of Lisbon focuses on basic rights.¹⁰

Situations outside the scope of the Charter of Fundamental Rights

The Charter does not apply where there are breaches of fundamental rights with no connection to Union law. Member States have their own systems to protect fundamental rights through their national courts and the Charter does not replace them. It is therefore up to the national courts to ensure compliance with fundamental rights and up to the Member States to take the necessary measures in accordance with their national laws and international obligations. In such situations, the Commission does not have the power to intervene as guardian of the Treaties.

Article 7 TEU provides for a mechanism enabling institutions of the Union to act when there is a clear risk of a serious breach or a serious and persistent breach by a Member State of the values referred to Article 2 TEU, which include respect for human rights. This is a political mechanism of last resort, intended for situations of an exceptional nature with a systemic, structural dimension. Where there is a clear risk of a serious breach of these values this mechanism may be triggered by a reasoned proposal of a third of the Member States, of the European Parliament, or of the Commission.

COM (2010) 573 Communication on Strategy for the effective implementation of the Charter of Fundamental Rights

The Stockholm Programme¹¹ is the framework for justice and home affairs from 2010-2014. The programme defines arrangements for cooperation between EU police and customs officials, as well as cooperation in criminal and civil law, asylum, migration and visa policy for the next five years. Its goals are closely connected to the protection of human rights. One of its main focal points is the issue of free movement of workers in the EU, as well as equality for women and minorities. One innovation is the Stockholm Programme's emphasis on helping Europe's largest ethnic minority, the Roma. Their inclusion is the result of an initiative launched by CEE countries.

The trio of Spanish, Belgian and Hungarian presidencies kept addressing human rights besides the urgent issues of the financial crisis and security concerns regarding the revolutions and subsequent crises in North Africa. The Spanish Presidency focused on immigration, followed by the Hungarian Presidency addressing the problems of the Roma, whereas later, the **Polish Presidency** focused on civil society matters and human rights issues in Belarus courtesy of the Civil Society Forum of the

⁹ Human Rights in the EU: the Charter of Fundamental Rights. Research Paper.
<http://www.parliament.uk/commons/lib/research/rp2000/rp00-032.pdf>

¹⁰ http://ec.europa.eu/growthandjobs/index_en.htm

¹¹ Swedish Presidency of the EU – Stockholm Programme.
http://www.se2009.eu/en/the_presidency/about_the_eu/justice_and_home_affairs/1.1965

Eastern Partnership. The **Danish Presidency** plans joint events with the FRA (see below) in order to bring the EU Charter of Fundamental Rights to life.¹²

The European Court of Justice also plays a fundamental role in monitoring and defending human rights norms. It is responsible for ensuring “the law is observed... in the interpretation and application of the treaties.”¹³ It is enough to look at the body of case law and the settlement of legal debates to appreciate the importance of the ECJ. It has helped states deepen integration on many occasions.

Other EU institutions also enhance the development of human rights. A number of commissioners’ portfolios deal with aspects of human rights. These include the commissioners for Justice, Freedom and Law; Information Society and Media; Internal Market and Services; Employment, Social Affairs and Equal Opportunities; and Education, Culture and Youth. These areas concern basic rights, but the main focus is on job-related issues, family, and the rights of children.¹⁴ Changes in the European Commission’s structure will influence its approach to human rights by 2014: A major achievement in the Barroso II Commission is the separate portfolio dedicated to Justice, Fundamental Rights and Citizenship.

The latest institutional addition is the **Agency for Fundamental Rights (FRA)**, founded in 2007 as an advisory body to the EU (see Figure II.1).¹⁵ The FRA monitors basic rights and the quality of life in all member states. It is responsible for collecting and disseminating data on the situation with human rights in all EU countries. It is also in charge of raising awareness of EU fundamental rights. The FRA was established in reaction to the negative human-rights tendencies and discrimination that have recently emerged; it serves as proof that human-rights issues are taking an increasingly prominent spot on the EU’s agenda. The organization’s first reports focused on racism and xenophobia and proposed initiatives to prevent discrimination in employment, education and healthcare.

The **Fundamental Rights Platform (FRP)**¹⁶ was convened under the auspices of the Agency in 2009. FRP consists of more than 300 CSO representatives, who assist the Agency with its work and disseminate research results, as well as participate in setting out topics for the FRA Annual Work Programme, thus, influencing FRA agenda and potential to influence the EU policies in this area. Once a year the group holds the Fundamental Rights Platform Meeting that ensures flow of information between FRA and civil society.

It is too soon to evaluate the FRA’s effectiveness, but it is clearly useful for monitoring fundamental rights and issuing recommendations. However, the institute has very limited political influence.

¹² http://fra.europa.eu/fraWebsite/news_and_events/2011-events/evt12_2601_en.htm

¹³ http://curia.europa.eu/jcms/jcms/Jo2_6999/

¹⁴ European Commission website. http://ec.europa.eu/index_en.htm

¹⁵ European Union Agency for Fundamental Rights. http://fra.europa.eu/fraWebsite/about_us/about_us_en.htm

¹⁶ Fundamental Rights Platform: http://fra.europa.eu/fraWebsite/networks/frp/frp_en.htm

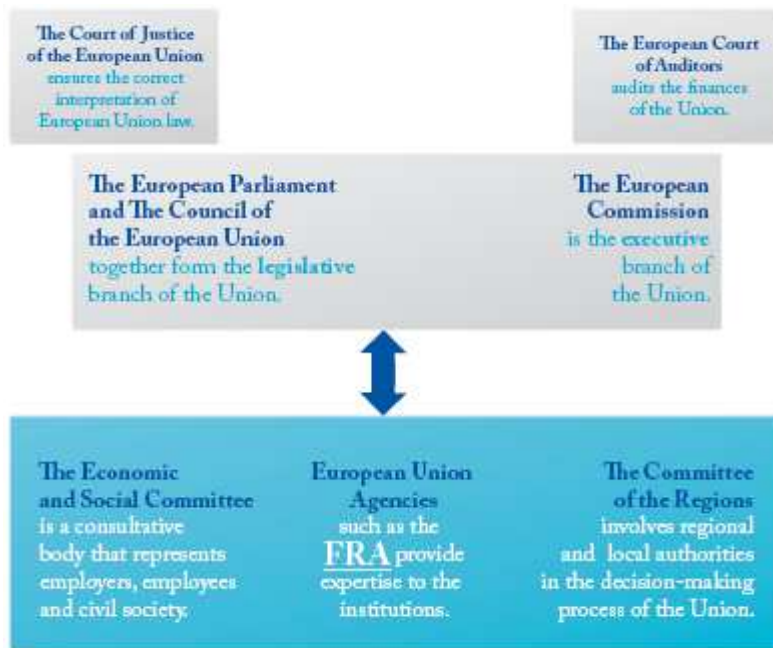


Figure II.1: The Role of the Agency for Fundamental Rights in the EU Decision-making Process
 Source: *The European Union Agency for Fundamental Rights - An introductory guide*

The FRA's focus areas are laid out in its multi-annual framework, which is defined by the Council of the European Union, the EU's main decision-making body, every five years. The nine areas for 2007-2012 are: 1. Racism, xenophobia and related intolerance; 2. Discrimination on all grounds, multiple discrimination; 3. Rights of the child; 4. Asylum, immigration and integration of migrants; 5. Visa and border control; 6. Access to efficient and independent justice; 7. Information society and protection of personal data; 8. Compensation of victims; 9. Citizens' participation in the Union's democratic functioning¹⁷.



Figure II.2: The FRA

The FRA has a special working relationship with the **Council of Europe**, a human rights-promotion group composed of 47 nations. This relationship is defined in a 2008 agreement.¹⁸ (The Council of Europe must not be confused with the Council of the European Union.)

The CoE has significant expertise in coordinating cooperation between national governments and monitoring the protection of human rights. The CoE created the office of the Commissioner for Human Rights and the Directorate General of Human Rights and Legal Affairs, which is responsible for overseeing agreements between the EU and CoE (these affect the FRA as well).

¹⁷ European Union Agency for Fundamental Rights. http://fra.europa.eu/fraWebsite/about_us/about_us_en.htm

¹⁸ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:186:0007:0011:HU:PDF>

The FRA and the CoE avoid bureaucratic overlap by harmonizing their functions, which also boosts the efficiency of EU decision-making processes. An important part of the FRA-CoE's job is to provide NGOs with material assistance and expert advice. However, NGO issues take a back seat to the CoE's number-one priority: Coordinating interstate cooperation so that all EU members will have uniform legal norms with respect to basic rights (human rights, democracy and rule of law).

The **Council of the European Union** prepares regular reports on human rights that frequently analyse conditions in aspiring member countries.¹⁹ The **European Parliament**, the EU's legislative branch, assesses the state of fundamental and human rights in the 27 member states and the rest of the world. It uses instruments such as annual reports, resolutions, debates, questions and the Sakharov Prize for Freedom of Thought (this prize, awarded by the European Parliament, honours individuals or organizations that have made outstanding contributions to the fight for human rights).

Since meeting human-rights norms is part of the EU's accession criteria, the institutions pay close attention to problems in prospective member states. Yet **once a country joins, Brussels frequently starts ignoring its problems**. EU institutions demand human-rights improvements abroad but tend to overlook basic issues within their own borders. This may stem from a lack of political will (related to a clash of interests among member nations) or simply a desire to avoid getting dragged into domestic wrangling.²⁰ EU institutions find themselves in an equally difficult situation when they try to put pressure on governments to fundamentally change their approach in human rights-related issues. A typical example is the expulsion of the Roma from France, which obviously turned out to be a discriminative act²¹, yet EU institutions were unable to change the approach of the French government.

An interesting recent example is from **Hungary, where the EU is finally challenging the legislation and political and economic measures taken by a member state**, based on constitutional concerns. Hungary's case demonstrates that the EU can confront a member state when it is in violation of EU law; however, this has been an extreme case in which the highly ambiguous, at times explicitly hostile attitude of the Hungarian government towards the EU triggered special attention and an unusually strong political pressure. In this case, the economic (high levels of debt and request for EU and IMF financing), fiscal (violation of EU rules on deficit) and political (anti-EU communication) factors aggregated and surpassed the otherwise high "level of tolerance" of the EU. The areas that were informally or officially challenged (media law, ombudsman, early retirement of judges) represent just a fraction of the serious human rights and constitutional violations that the current Hungarian government embarked upon since its election in 2010. It must also be pointed out that the EU did not take any measures in the preceding years that led up to the current situation, even as the issues of corruption, segregation, public order deteriorated and the extreme right has grown stronger.

HRAW groups have a major role to play in raising political awareness of the problems and addressing them on both the EU and domestic levels. In addition, they can also disseminate best practices in pre-accession countries. However, financing is problematic for country-specific NGOs that are able to focus on localized human-rights problems. EU grant-making institutions have tended to favour large-scale "umbrella" NGOs with wide-ranging networks; local civil-society groups are often viewed as lesser entities and have not made out as well. (See Chapter IV)

The European Union can make up for this by adopting new funding programmes that focus on supporting NGOs at the local level. The need for a policy change is even more urgent since core funders, including most of all the Open Society Institute, which has provided a great deal of funding to HRAW NGOs, are pulling out of the NMS. This poses a serious threat to civil society's financial viability in Eastern Europe. (See Chapter III.)

¹⁹ EU Annual Reports on Human Rights. <http://www.consilium.europa.eu/showPage.aspx?id=970&lang=EN>

²⁰ See for example: European Instrument for Democracy & Human Rights http://ec.europa.eu/europeaid/how/finance/eidhr_en.htm

²¹ <http://www.guardian.co.uk/world/2010/sep/13/sarkozy-roma-expulsion-human-rights>

III. The Human Rights Context in the NMS

III.1. Summary of findings²²

- The development of democracy and human rights in the New Member States is generally considered a success story after the fall of dictatorships, but numerous problems persist. The NMS are facing major difficulties with respect to ethnic tensions and discrimination, corruption, gender equality and domestic violence. These are among the key human rights problems mentioned in the country reports on regional sustainability.²³
 - Some social problems in the NMS are more serious than in the EU15.
 - The public is less sensitive to these problems than in the EU15.
 - The practice of volunteers donating money or time to NGOs is not common in the NMS.
- The global financial crisis has exacerbated these difficulties:
 - Deepening social problems (corruption, ethnic conflicts, domestic violence).
 - Less motivation to volunteer: The crisis has fostered a “material approach” to life across Europe. People have less motivation and/or time to participate in civil groups’ activities.
 - Decreasing “generosity”. The crisis has significantly eroded household incomes and reduced people’s motivation to donate. Corporate Social Responsibility donations are also down, in the NMS especially.
 - Alternative channels of counter-action (e.g. Occupy) are raising new challenges for established Human Rights organizations . Those new channels may as well spread to NMS.
- Human rights and accountability watchdog organizations have launched a number of successful initiatives in Central and Eastern Europe, but socio-political phenomena in the region make their work much more difficult:
 - “Politicisation” of civil society.
 - There is a lower prevalence of “post-material” values and the public is less receptive to civic initiatives.
 - Significantly lower levels of social capital.
 - Stronger influence of business lobbies.
 - Many politicians are reluctant to support initiatives that are politically unpopular, even if they are important from a human rights perspective.

²² Findings in this section are based primarily on the research presented in Annexes I-III. Chapter III provides an overview of the elements of this research that are most relevant to the immediate funding context of the HRAW.

²³ See Annex IV: Country Information.

- While social problems are greater in the NMS than in the EU15, they are hardly unique to the region. The EU15 has a serious problem with integration of immigrants. High levels of corruption and endemic tax evasion were key contributors to the Greek debt crisis. Women in Western Europe are struggling against domestic violence and discrimination, just like in the NMS. Human trafficking is a serious human rights violation that affects the entire continent – Eastern Europe as transit countries and Western Europe as target countries. The battle against human traffickers requires a pan-European approach, and national governments desperately require the assistance of HRAW NGOs (and INGOs).
- Although Eastern European NGOs do not enjoy as much support as their western counterparts and face greater social and political obstacles, they have a crucial role in solving societal problems and raising awareness on human rights issues. This is especially true in areas where state authorities are lagging behind (e.g. corruption, domestic violence, discrimination). **Most of the HRAW NGOs in the surveyed countries lack strong, direct ties to citizens; however, they still have the ability to influence decision-making on issues of public interest and to influence the public discourse.**²⁴
- HRAW NGOs in NMS must use their resources to build up their domestic capacity and improve their legitimacy. This would be a first step toward sustainability.
- Civil society in NMS may even collapse unless it gets adequate political and financial support. Such collapse would cause the region's social problems to grow even deeper and existing problems could turn into social conflicts or even trigger violence.

Key findings related to the context of HRAW NGOs' sustainability

The biggest problems NGOs face in the CEE region are related to fundraising and the sustainability of the civil sector:

- **The political context.** There is much less political support for civil society in the NMS. Politicians frequently try to discredit civil society groups or make them dependent on government. Due to the culture of "clientelism", NGOs that receive state support are most frequently expected to toe the mainstream political lines – an attitude that is largely absent in Western European democracies.
- **Societal attitudes.** Troublesome attitudes, habits and traditions generally run deeper in the NMS than in Western Europe – and pose a bigger threat. At present, the region's biggest problems are related to ethnic, gender and racial discrimination, implementation of human rights and a general democratic deficit (rule of law). All of these have long historical roots.
- **Philanthropic environment.** The operational environment for HRAW groups in the NMS is far from optimal thanks to a lack of societal trust ("social capital"), reluctance to donate and lower levels of volunteerism, all of which are key elements of a philanthropic culture. Under optimal financial and political conditions, HRAW NGOs can help solve chronic social problems. Chapter IV deals with the difficulties of sustainability of HRAW groups in detail. Among others, it highlights the challenge of working in societies that are not very sensitive to issues of human rights or good governance. HRAW organizations get less individual and corporate donations than charities and service-oriented NGOs, partly because HRAW NGOs deal with minority issues that people consider uncomfortable, contentious and controversial. Many donors are reluctant to support HRAW groups, even if they agree with their goals.
- **The financial and social crisis.** The recession has had a general negative impact on political and social circumstances in the NMS. Ethnic tensions, poverty, human rights abuses and corruption have risen, while governments have less capacity to address social issues. Civic initiatives have become more necessary than ever. This means regional HRAW groups' workload is increasing while financing opportunities are disappearing.

²⁴ See Annex III: HRAW Examples and Chapter IV: Sustainability of HRAW NGOs.

III.2. The political context

To fulfil their social functions, civil groups need an adequate political framework in which they can operate freely and effectively. Governments' and politicians' ability to exercise influence over the civil sector depends on two factors: Civil society's institutionalization and its independence.

Institutionalization and independence form a two-dimensional framework for evaluating the nongovernmental sector vis-a-vis the government.²⁵ In the old member states, civil organizations are more developed in at least one aspect. Consequently, civil society's advocacy efforts are much more successful.

Independence is connected to the level of "politicisation" of civil society. Political parties often use tactics to influence or control the civil sector. State intervention is hardly compatible with the "bottom-up" principle and often diverts or undermines the sector's real aims.

Tools that politicians use to control civil society include the "civil disguise," a populist tactic whereby politicians try to create the illusion that their policy agenda originated in "civil society." They do this to try to distinguish themselves from career politicians, who have an extremely poor reputation in post-socialist societies. This strategy is especially common among far-right groups in Central and Eastern Europe: The rise of the Hungarian far right in autumn 2006 was driven by so-called "civic" organizations with "grassroots" credentials. The Hungarian Guard, an ultra-right paramilitary movement established in 2007, calls itself a civic group that operates independently from political parties – yet the group's president is Gábor Vona, head of the nationalist, anti-Roma Jobbik party. The Hungarian Guard clearly serves as a tool for Jobbik to recruit members and mobilise supporters. Since 2010, the most successful demonstrations against the government led by Viktor Orban were organized by civic movements, however, there are clear efforts by opposition political parties to "annex" civic movements and link them to themselves – a pressure that only a part of the civil society will be able to resist.

Another tool is state donations to NGOs. These frequently "kill" NGO groups by making them dependent on government. In recent years, the state's control over these organizations has brought constant criticism. From time to time, NGOs in the region are divided along political cleavages: those loyal to the government are funded and supported, but at the same time stripped of the privilege of independent initiatives, while others that criticise the government and authorities, are short of resources in terms of funds and publicity as well.

Political dependence is a problem that seriously affects the financial sustainability of NGOs. Some respondents of the Flash Survey wrote:

"The EU commission should remove or withdraw the powers of the state authorities in deciding which of the NGOs receive EU funds. It should be noted that watchdog NGOs are sometimes not good friends of the state, the government in power or the ruling political party, hence these situations contribute in restricting the access of Human Rights NGOs to EU funding."

"Some state authorities do politicize the access of Watchdog NGOs to EU funding since it is within the powers of the state institutions to distribute, allocate or grant the funding to appropriate NGOs. Moreover, some states are so powerful that they influence the decision making process even within the EU, by so doing, some recalcitrant or stubborn NGOs are identified even at the EU level are punished by deliberate denial of the grant application."

"States know very well what to do about problematic watchdog and advocacy organizations - get them into the trap of relying on resources from the state budget and then ruin them financially by not paying them in time in advance or rejecting the payment after the work is done...."

²⁵ See Models of Government-NGO relations in Europe, in: Public Financing of NGOs in Europe, ECNL (draft under publication)

Institutionalization. The NMS have a relatively low number of NGOs and they have far less institutional significance than their counterparts in the EU15. Under communism, the state guaranteed basic social welfare and tried to prevent “competition” from civic and charity organization. Furthermore, the state used civic organizations outside the party (e.g. trade unions) as a tool for social control. This left people with a deep-seated suspicion of civic groups that will take a long time to go away. Civil groups in post-communist states are therefore having a very difficult time gaining acceptance as institutions. The low number of volunteers in these countries causes further headaches for NGOs (see Figure III.1). This is directly linked to the hardships NGOs face in the “social context” sphere.

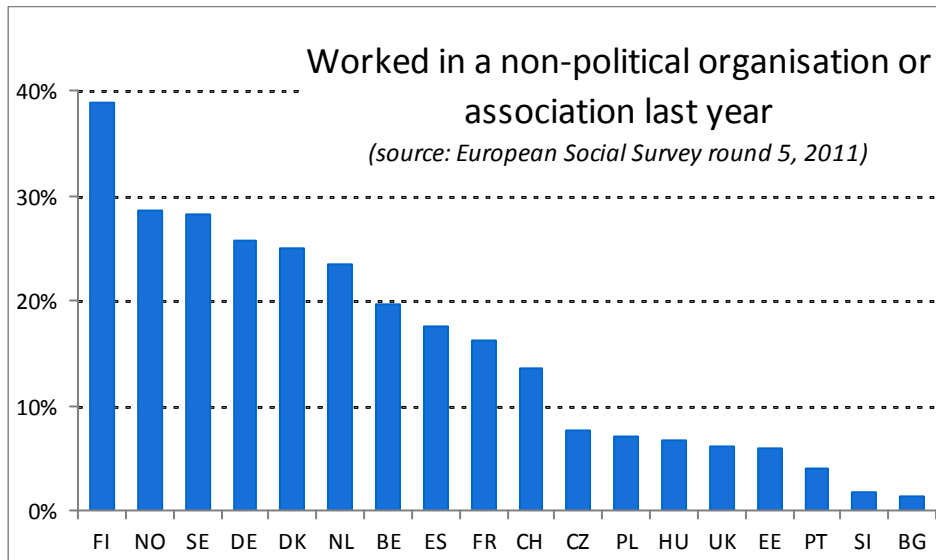


Figure III.1: Participation in non-political organizations

III.3. The social context

III.3.1. Inclination toward Societal Self-Organization

One damaging legacy of state socialism is that “volunteer” became a pejorative term. “Voluntary work” was a euphemism for “mandatory unpaid labour.” As a result, people who grew up in this era rarely take part in community projects as unpaid volunteers, even 20 years onwards (see Figure III.2). Nor do their children.

Voluntary work is important in their life
(in percent, source: Special Eurobarometer 223, December 2004)

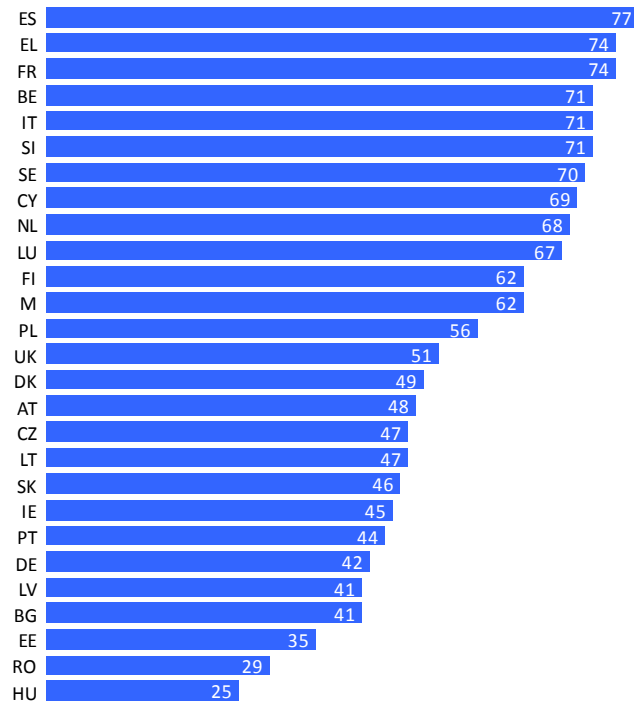


Figure III.2: Importance of volunteer work

“Social Capital” – the net of positive relationships between people that facilitate cooperation and collective action – is crucial for civil society. Social capital shapes the environment and conditions in which civic organizations work: It determines their support levels, their ability to work efficiently, and people’s disposition toward volunteerism and social activism. Post-communist societies are deficient in almost every aspect of social capital compared with old member states (see Figure II.6). This includes trust in fellow citizens (“horizontal trust”), trust in the political elite (“vertical trust”), social networks, social norms and civic social activity.²⁶ Social alienation levels are also significantly higher in Eastern Europe. This has long-term consequences – and not just for civil society. The low level of social capital influences everyday interactions between people on every level of society (see Figure II.5). The lack of social trust hinders cooperation, resulting in inefficient institutions and ineffective economic transactions.

²⁶Sík Endre-Giczi Johanna: Bizalom, Társadalmi Tőke, Intézményi Kötődés (Trust, Social Capital and Institutional) http://www.tarki.hu/hu/research/gazdkult/gazdkult_gici_sik.pdf

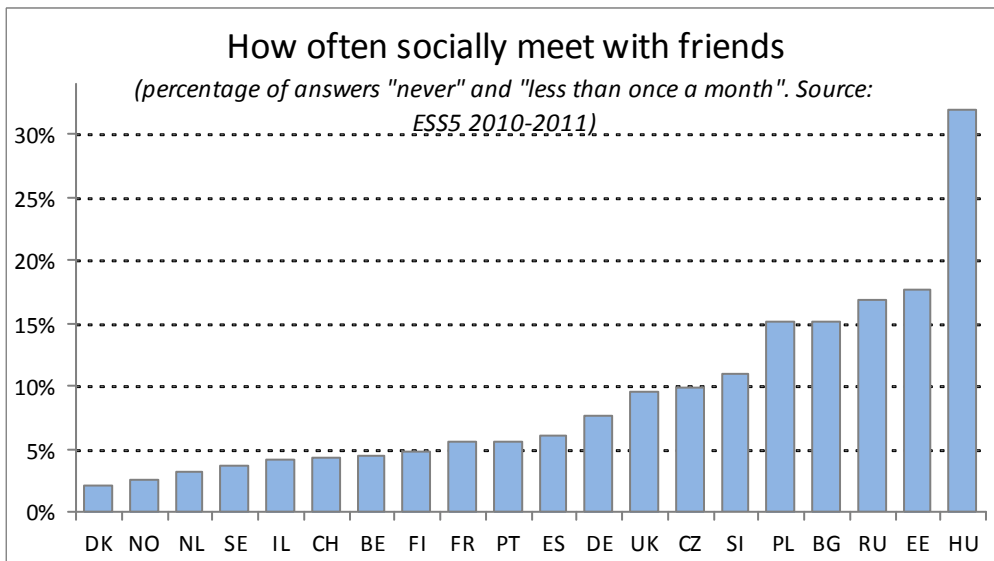


Figure III.3: Frequency of social activity

The most deeply rooted problem is probably people's lack of trust in each other. This profoundly influences the way people relate to each other on all levels of society. Mutual mistrust and the infrequent meetings with friends make self-organization difficult. As Figure III.3 shows, around 30% of Hungarians hardly ever meet their friends socially (never or less than once a month). However, social activity in NMS falls significantly behind the EU 15 (among which the differences are also noteworthy). This is likely also a primary reason for the hardship NGOs face in attracting members and organising a united front on issues. The weakness of civil society in the NMS is thus partly explained by general social phenomena that are unlikely to change anytime soon.

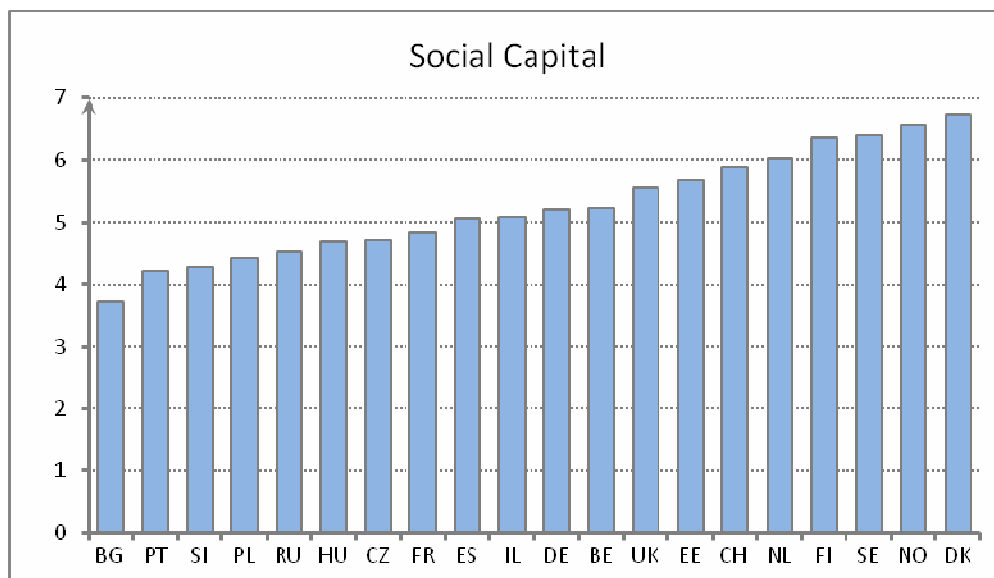


Figure III.4: Social Capital Scores

Social Capital = The average value of responses to the following three questions in the 5thWave (2010-2011) of the European Social Survey: 1. Most people can be trusted or you can't be too careful, 2. Most people try to take advantage of you or try to be fair, 3. Most of the time people are helpful or mostly looking out for themselves. Social Capital is measured on a scale of 0-10 where 0 indicates a total lack of trust and 10 indicates total trust.

At the same time, civil organizations can play a major role in raising social capital. A detailed examination of the variables in the above index shows that people who have worked with civic organizations report a significantly higher level of “horizontal trust” than those who have not. Except for Hungary, social capital scores are higher at the members of civic organizations.

To be sure, it is difficult to tell which one is the cause and which one is the effect: Does participating in civic work make people more trusting, or are trusting people more likely to participate in civic work? In any event, it is clear that NGOs have a trust-strengthening role. People’s faith in one another will improve as more people come into contact with civic groups. It is hard to find a definite explanation for the scores obtained in Hungary. However, from previous and other surveys it is clear that the country is among the worst regarding the attitudes and relations to NGOs as well as to the values and issues they represent.

Social Capital Scores	BE	BG	CH	CZ	DE	DK	EE	ES	FI	FR
Among those who have worked in a non-political organization or association	5,7	4,0	6,1	5,3	5,5	6,9	6,4	5,2	6,5	5,0
Among those who have not worked in a non-political organization or association	5,1	3,7	5,8	4,7	5,1	6,7	5,6	5,0	6,3	4,8
	UK	HU	IL	NL	NO	PL	PT	RU	SE	SI
Among those who have worked in a non-political organization or association	6,1	4,7	5,7	6,2	6,8	4,6	4,7	4,8	6,6	4,6
Among those who have not worked in a non-political organization or association	5,5	4,7	5,1	6,0	6,5	4,4	4,2	4,5	6,3	4,3

Table III.1: Civil Organizations and Social Capital

**Scores on a 0-10 scale, where higher numbers represent a higher level of trust.*

III.3.2. Sensitivity to Human-Rights Issues

In addition to people’s capacity for self-organization, it is also important to examine how sensitive people are to the issues that NGOs deal with.

A general “post-materialist” (or “self-expressive”) approach is necessary for a well-functioning civil sector. However, Eastern Europeans are generally oriented toward material (“survival”) values (see Figure III.5). (Young people tend to be more open to “post-materialist” topics such as human rights and the environment).

The Inglehart-Welzel World Values Survey is a social value scale that measures people’s orientation toward issues that lie beyond their own personal spheres of interest. It shows that societies can be differentiated based on their level of progress through industrial or post-industrial phases.

“A central component of this emerging dimension involves the polarization between Materialist and Post-materialist values, reflecting a cultural shift that is emerging among generations who have grown up taking survival for granted. Self-expression values give high priority to environmental protection, tolerance of diversity and rising demands for participation in decision making in economic and political life. These values also reflect mass polarization over tolerance of out-groups, including foreigners, gays and lesbians and gender equality. The **shift from survival values to self-expression values** also includes a shift in child-rearing values, from emphasis on hard work toward emphasis on imagination and tolerance as important values to teach a child. And it goes with a rising sense of subjective well-being that is conducive to an atmosphere of tolerance, trust and political moderation. Finally, societies that rank high on self-expression values also tend to rank high on interpersonal trust. This produces a culture of trust and tolerance, in which people place a relatively high value on individual freedom and self-expression, and have activist political orientations. These are precisely the attributes that the political culture literature defines as crucial to democracy.” Inglehart and Welzel¹

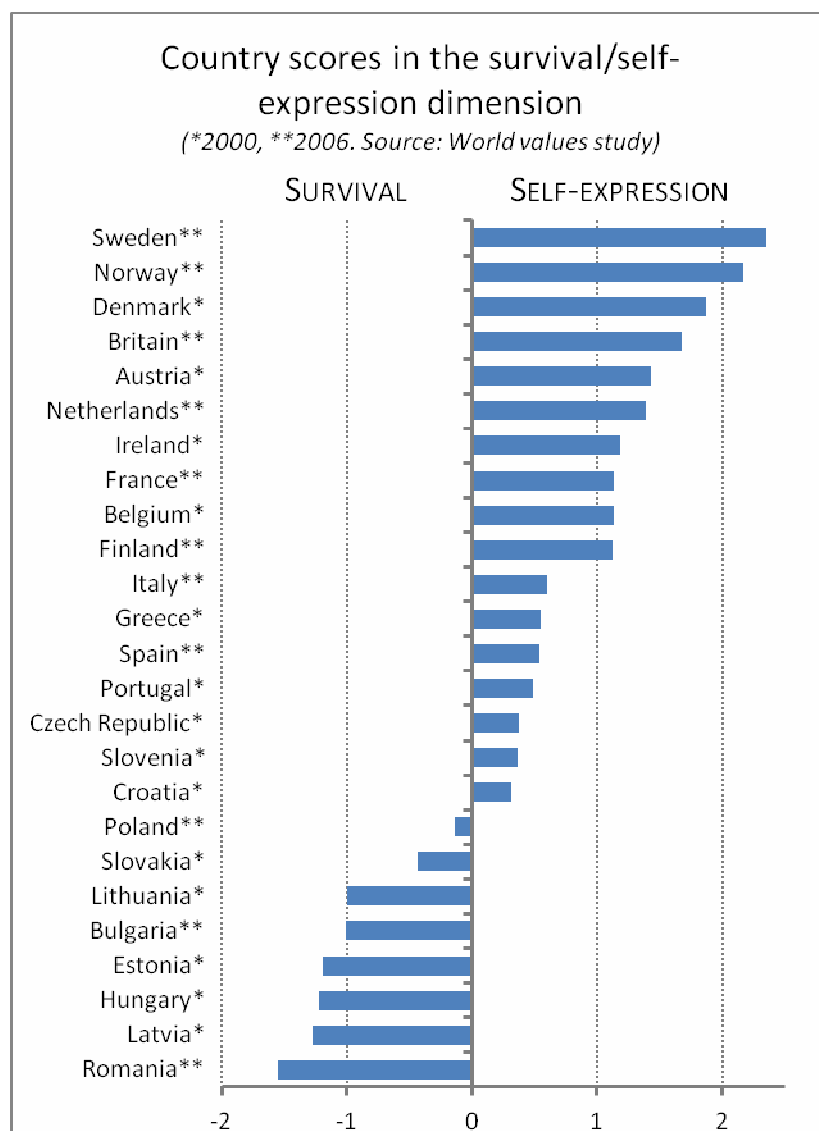


Figure III.5: Materialist and post-Materialist Values

While the World Values Survey shows a strong shift toward “self-expressive” values in Europe over time, the growth of such values has stalled or even declined in certain CEE countries. Hungary’s

position on the scale moved from -1.07 in 1981 to -0.77 in 1995. But by 2000, the country had fallen back down to -1.22. This demonstrates that societal attitudes can change significantly in the space of a few years in either a positive (self-expression) or negative (survival) direction.

The economic crisis has generally strengthened materialist value orientations. A strong, stable system of civil organizations that promote civic-minded values can help to reduce the chaos and strengthen the trend toward post-materialism.

A special Eurobarometer survey in the autumn of 2009 asked respondents across Europe whom they would turn to should they experience some kind of negative discrimination. Surprisingly, the answers did not show any significant East-West trend in the public's regard for NGOs (see Figure III.9 below).

An obvious sign of this tendency may be the fact that the permanent nature of the crisis, and the perception of that permanency itself could worsen attitudes in society related to "survival" and "self-expression". Whereas only a few countries (Poland) in the region were able to withstand the crisis, others are to prepare for a long lasting decline without real perspective of an upturn during the next few years. The likely overall outcome of this is a strengthening focus on "survival", while postmaterial values related to human rights concerns will be pulled into the background.

III.4. The Relevance of HRAW NGOs

The research identified a number of serious issues in human rights and governance that need attention and solution in both the old and the new member states. While Annex I describes these in detail, we present just a few problem areas here to illustrate the gravity of the situation and briefly explain how HRAW NGOs could help address these.

Right-wing extremism and xenophobia

Right-wing extremism with violent expressions of intolerance surfaced notably in the past years in both Eastern and Western Europe. Political Capital's DEREK Index measures societal demand for right-wing extremism. The index shows that Bulgarians, Hungarians and Czechs are the most susceptible to discriminatory, anti-establishment and authoritarian ideologies.

Political Capital designed the DEREK Index using its own theoretical model and data from the European Social Survey (ESS), a biannual study that tracks changes in societal attitudes and values in 33 countries in Europe and the Middle East. The index is calculated using data from people's responses to 29 questions in the ESS. A country's DEREK score indicates the percentage of people who are predisposed to extreme right-wing politics.

DEREK is built from four main categories (sub-indices): Prejudice and Welfare Chauvinism, Anti-Establishment Attitudes, Right-Wing Value Orientation, and Fear, Distrust and Pessimism. The first category, prejudice and welfare chauvinism also covers homophobic and anti-immigrant sentiments.

	Country	Prejudices and Welfare Chauvinism Score	DEREK Score
1.	Hungary	48%	11%
2.	Estonia	41%	4%

3.	Czech Republic	36%	8%
4.	Portugal	30%	11%
5.	Bulgaria	29%	18%
6.	United Kingdom	27%	4%
7.	Slovenia	26%	8%
8.	Belgium	24%	3%
9.	France	21%	6%
10.	Finland	21%	1%

Table III.2: Prejudices and Welfare Chauvinism: Top 10 European Countries (2011)

(Numbers represent the percentage of adults (age 15+) who fulfil the criteria for being a right-wing radical, based upon their answers to the 29 questions.)

Western Europeans' rates of prejudice and xenophobia are higher than their anti-establishment attitudes, but their Eastern European brethren run rings around them in both categories (see Table III.2). Opposition to immigration is strongest in countries that have the fewest immigrants; "virtual" foreigners are apparently capable of generating just as much fear and aversion as the tangible ones. (For more details see Annexes I and II).

Adequately financed HRAW NGOs have numerous ways to dilute the conflicts between majority and minority. These include, e.g., attitude-shaping campaigns, various education programmes and community based initiatives. A more intensive social-political discourse on immigration could make society more aware of the advantages of immigration, thus alleviating aversion to immigrants.

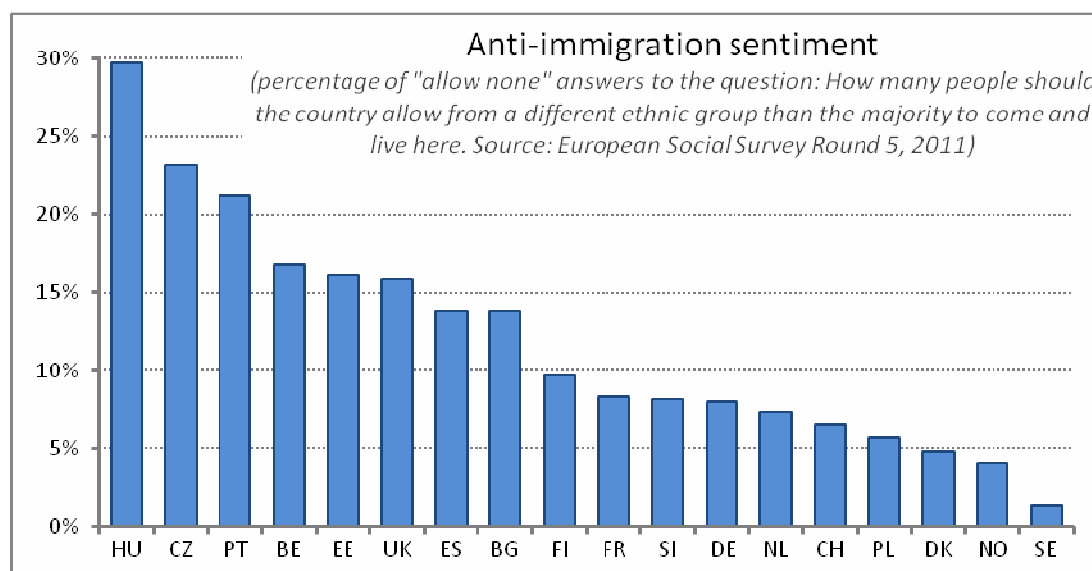


Figure III.6: Anti-immigration Attitudes

Discrimination of women

Social norms that preserve strict traditional gender roles are generally stronger in Eastern Europe than in the EU15, especially in societies where religion plays a big role (e.g. Poland), according to surveys. (See Annex I). However, the conservative view of women's role in society has strengthened across Europe as a result of the high unemployment brought on by the economic crisis of autumn 2008. While a staggering 52% of Hungarians believe that men should have more right to a job than women when jobs are scarce, almost one fifth of the population of West European countries such as France, Belgium and Switzerland also agree (see Figure III.7). This attitude reduces a country's competitiveness on both a macroeconomic and a household level.

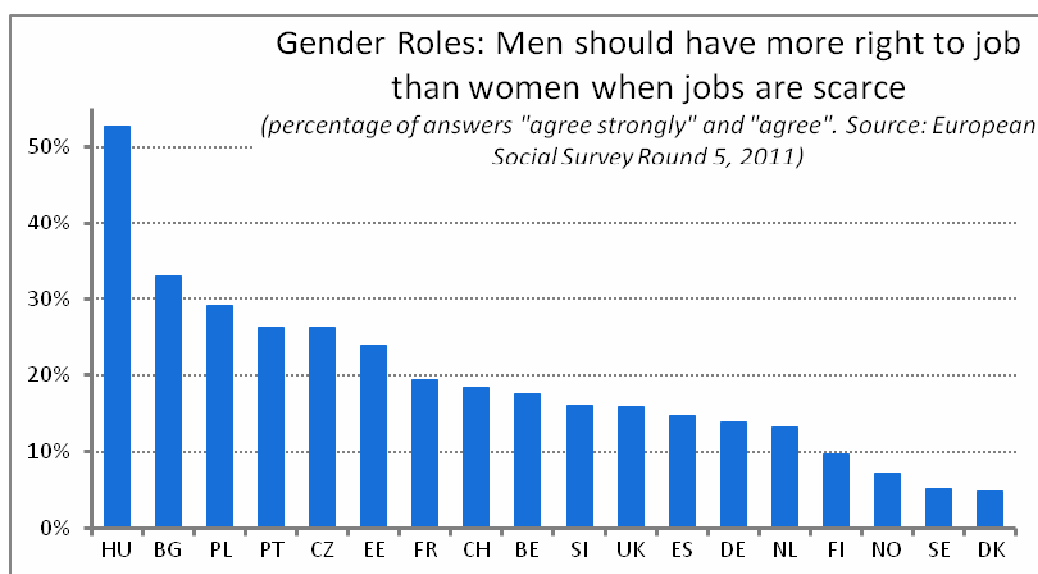


Figure III. 7: Gender Roles I.

HRAW NGOs play an important role in transforming gender roles. They can also initiate legislation and political action to curb gender discrimination and domestic violence. Laws aimed at reducing domestic violence may prove futile without NGO action on the societal level: the lack of public awareness, information and political willpower, as experienced in many NMS, may render them useless.

Corruption

According to most surveys (e.g., Transparency International), corruption represents a bigger threat to the post-communist NMS than the EU15. Certain patterns of nepotism, corruption and cronyism are clearly the legacy of state socialism.

High corruption institutionalizes political influence in the private sector. Legislative shortcomings, such as opaque party- and campaign-finance laws, exacerbate the problem because politicians raise much of their funding illegally. The perception of political corruption is one of the main reasons for public mistrust toward politics and the democratic system itself.

Romania and Bulgaria have the worst rankings in 2011 in the EU on Transparency International's Corruption Perception Index (CPI)²⁷, and NMS countries dominate the higher end of Eurobarometer's Expected Bribes indicator, though Southern European countries such as Italy and Portugal are also among the countries with an extensive practice of paying bribes (see Figure III.8).

²⁷ <http://cpi.transparency.org/cpi2011/results/#CountryResults>

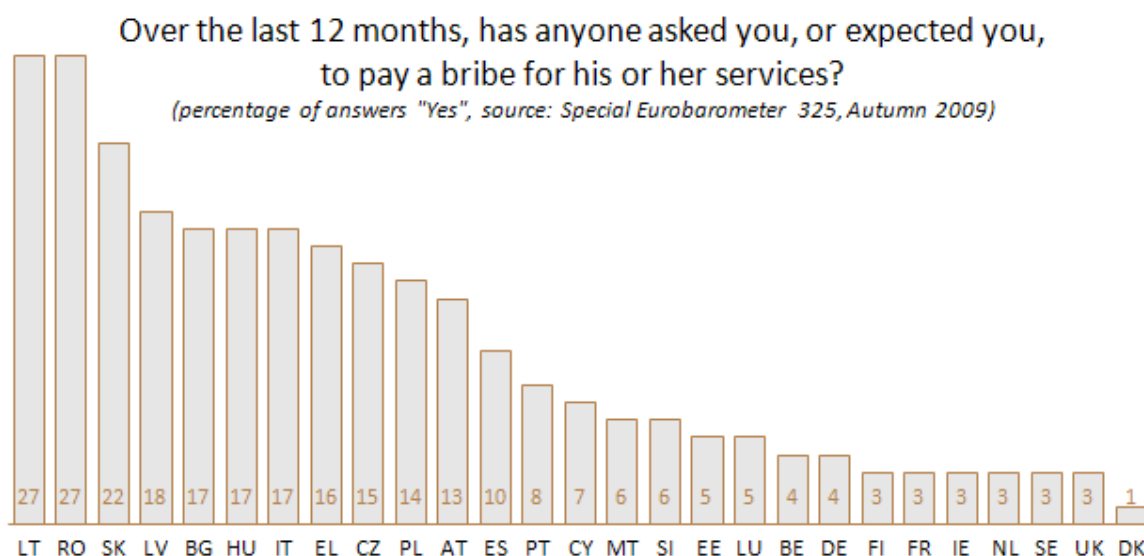


Figure III.8: Expecting Bribe

HRAW NGOs in these countries proved their ability to call attention to and bring down corrupt practices. (For examples, see Annex III.) Their significance cannot be underestimated. Promoting a culture of respect for the rule of law is a matter of survival in the societies of Southern and Eastern Europe.

The role of NGOs

Effective policies to address human rights problems must take into account the contributions that NGOs can make to solving them.

Despite the difficulties faced by NGOs and the reported lack of connections with the broader public, people do count on NGOs when they are in need. For example, 35% of people in Poland would choose to report their case to an NGO in the first, second or third place in case they suffered discrimination; three other countries (Slovenia, Bulgaria and the Czech Republic) surpass the EU average of 18% (see Figure III.9.) While such trust may not yet translate into monetary donations in the NMS, NGOs have a certain level of social capital that is indispensable to fight prejudices and corrupt practices.

**In case you are the victim of discrimination or harassment,
to whom would you prefer to report your case?**

*% of answers "NGO's - associations", source Special Eurobarometer 317
Spring 2009*

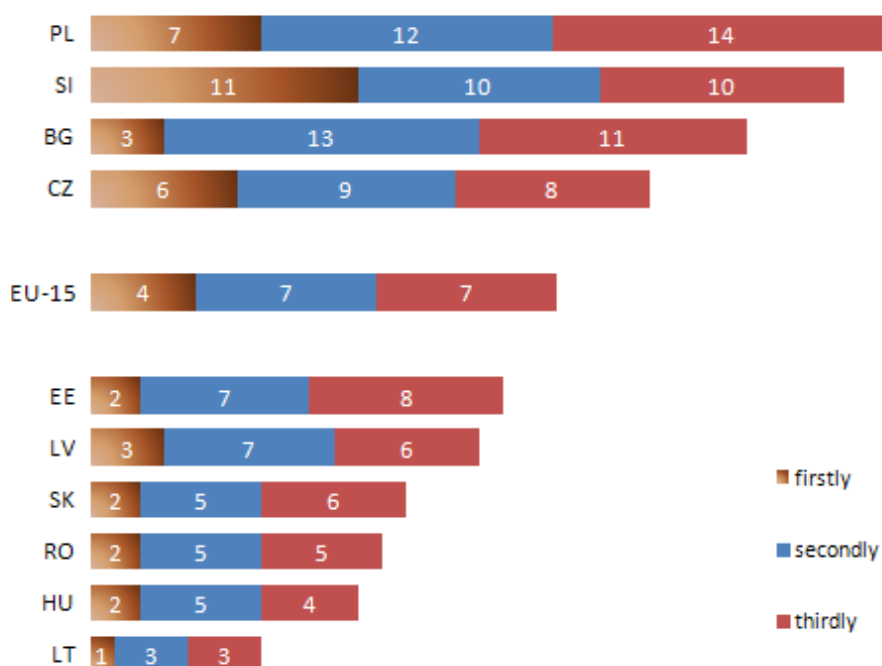


Figure III.9: The role of NGOs in the fight against discrimination

The role of NGOs in addressing human rights issues and overcoming the democratic deficit is of crucial importance. NGOs help in resolving these problems in at least three main ways:

(1) As shown above, HR and governance problems in the NMS are deep-rooted in the historical and social development of the countries, and changing such basic attitudes of people takes decades. Thus, developing a democratic culture is a long-term undertaking that governments tend to ignore as they focus on immediate political gains. NGOs have their missions set for a long-term horizon and are committed to pursue awareness raising, education, litigation and other activities that change attitudes over many years – provided they have sufficient resources to do so.

(2) HRAW NGOs monitor the government's policies and hold the state accountable for its actions ("watchdog function"), which function is especially important in countries, including several NMS, where the mainstream media is under political influence and the public is not sensitized enough to government accountability.

(3) Finally, when HRAW NGOs cooperate with the lawmakers and the authorities, they add value in developing and implementing high quality public policies regarding key human rights and accountability areas, which conform to European and international law.

Fulfilling these roles is not without challenges. The extent to which NGOs are able to realize their important roles in the protection and promotion of human rights and good governance depends in a big part on the environment they operate in.

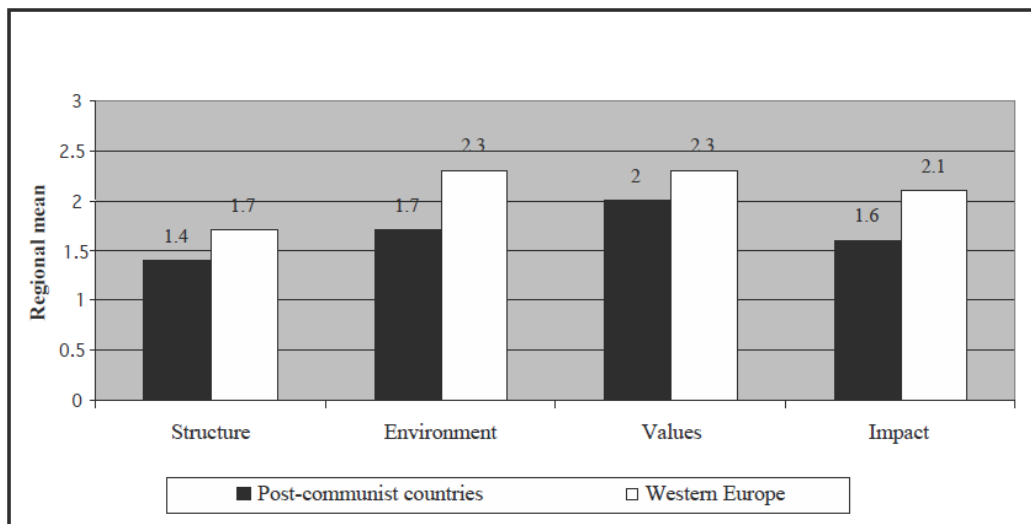


Figure III.10: Civicus Civil Society Index dimensions in Western Europe and the post-communist countries ²⁸

According to the CIVICUS – World Alliance for Citizen Participation’s report,²⁹ the overall watchdog and advocacy capacity of CSOs in the CEE countries is lower than in the EU15 (see Figure III.10), especially in the field of monitoring the government and keeping authorities accountable. They also have limited capacity to respond to societal interests and to inform and educate citizens on public issues. The only groups that have a significant impact on national decisions are trade unions, business associations and, to a lesser extent, environmental organizations.

There are obvious reasons for this discrepancy: the civil sector in formerly communist Europe is in a developing stage, as is the entire democratic system. NGOs are not as entrenched as in older democracies; they are weak and subject to political influence. They often lack the support of the wider publics and rely on finances from just a few donors, which raises serious questions about their sustainability. (See Chapter IV) The lack of predictable, long term income also presents an obstacle in their strategic thinking and planning (as they can only plan for one or two years when funding is still available), thereby rendering their work less effective. “Most CSOs lack the resources and, especially, the research capacity to monitor budgeting processes or conduct advocacy campaigns... CSOs often have inadequate financial resources, which is aggravated by the fact that many foreign donors have been decreasing their commitment to countries that have gained access to the EU.”³⁰ The economic crisis has reduced funding, Corporate Social Responsibility contributions, donations and volunteering, while significantly raising societal tensions and human rights abuses (discrimination, corruption, domestic violence).

Despite the challenges, civil groups have been playing a crucial role in fighting social-political “diseases” such as corruption, domestic violence, segregation and discrimination. HRAW NGOs have managed to alter political processes and mobilise the public through a wide range of methods from strategic litigation to enforcing access to information, as illustrated by Annex III: NGOs can make a difference and Annex IV: Country Information, which contain specific success stories and case studies where the civil sector has successfully affected policy decisions and raised public awareness in the NMS.

²⁸ http://handicap-international.fr/bibliographie-handicap/6SocieteCivile/Connaitre_influencer/civicus.pdf, page 13

²⁹ Lorenzo Fioramonti & V. Finn Heinrich: How Civil Society Influences Policy: A Comparative Analysis of the CIVICUS Civil Society Index in Post-Communist Europe, April 2007

http://handicap-international.fr/bibliographie-handicap/6SocieteCivile/Connaitre_influencer/civicus.pdf

³⁰ Ibid. Page 24

Deep-rooted, systemic problems in human rights and governance are far from being solved, especially in Eastern Europe. Political actors on the national level are frequently reluctant to handle these problems, and even if they are willing to address them, they cannot bring about changes by themselves. **HRAW NGOs, under appropriate funding circumstances, should be key players in improving human rights conditions in the NMS and the old member states as well.**

IV. Current State of HRAW Funding and Sustainability in the NMS

IV. 1. Introduction

The Project conducted research at the country level in the ten new EU member states from the post-communist Central and Eastern Europe – Baltic states (Estonia, Latvia, Lithuania), Visegrad group countries (Poland, Czech Republic, Slovakia, Hungary), Slovenia, Romania and Bulgaria. The country reports are annexed to this Study (Annex IV:Country Information), while this Chapter summarizes key information and learning points related to the sustainability of their HRAW NGOs.

Country reports include a summary of key human rights, accountability and watchdog issues that are relevant for a given country; a list of selected HRAW NGOs with their short description; a general assessment of the sustainability situation of HRAW organizations and the key challenges and issues that these organizations face; and finally the funding sources, both existing and potential ones analyzed from the perspective of HRAW NGOs. The below analysis provides an overview at the regional level from each of these sections.

Given a very heterogeneous and to some extent incomplete information, it was not possible to formulate conclusions for each country, however for some countries there are conclusions and recommendations offered as well.

IV.2. Key Human Rights, Accountability and Watchdog Issues

The various international organizations monitoring human rights (such as Amnesty International, US State Department Human Rights Report, Progress Reports of Council of Europe, etc.) report problems in human rights, rather than a systematic or significant abuse of human rights, in connection with the new EU member states. At the same time some of the problems are grave and have shown deterioration or lack of improvement in recent years.

Issues that are of a concern in the region covered by the country reports include:

- Discrimination of Roma, especially in their access to education, housing and social services
- Various forms of discrimination against women, elderly and people with disabilities or special groups of people (for example stateless people, immigrants or asylum seekers)
- Domestic violence against women and children
- Skinhead and neo-nazi attacks on Roma, foreigners and LGBT people,
- Corruption at various levels of government including political corruption
- Integrity of (corruption in) judiciary
- Trafficking in women and children
- Restrictive measures and intolerance against minorities (primarily ethnic, but also others – for example LGBT people)
- Inadequate police behavior towards detained persons and improper prison conditions

There are slight variations among these issues in different countries. Nevertheless, they represent real challenges for their people and institutions in how to authentically embrace the European values and traditions of democracy, human development and good governance.

IV.3. Human Rights, Accountability and Watchdog NGOs

In each of the studied countries, there is a number of HRAW NGOs that respond to the above listed issues. Some of them focus on a human rights issues in a “classical” perspective (such as Hungarian Helsinki Committee).

Another group of NGOs focus on human rights as a result of problems they face in their subject area – sustainable development, women or children issues, patients groups, etc).

Then there is a group of NGOs established and run by lawyers that focus on providing legal aid to victims of governmental (institutional, systemic) injustice and are involved in strategic litigation.

Another special group of HRAW NGOs are NGOs focusing on the accountability of politicians and public officials, governance, transparency of institutions and public budgets (most typical is the national chapter of Transparency International, that is present in each of the studied countries).

Most of the HRAW NGOs listed in the report are professional organizations, with paid staff and governed by boards. Most of them can be described as effective and successful organizations. There are also some NGOs that are run by professionals, but on voluntary basis (for example Bulgarian Activist Alliance). The interest in maintaining the professionalism and paid staff in these NGOs comes from the belief that it is needed to ensure effective, high quality and constantly improving work.

Only a few of the NGOs are members’ led organizations with larger membership and constituency building efforts (for example Hungarian Civil Liberties Union – TASZ or the Estonian Patients Advocacy Association).

Most of the HRAW NGOs in the studied countries **lack strong and direct ties to citizens in their societies, but at the same time they do have the ability to influence decision-making** on issues of public interest and to influence the public discourse on these issues.

One of the factors influencing the situation of HRAW NGOs in the region is the consequence of a **donor driven civil society development**. This on the one hand helped many HRAW NGOs to improve their management practices and organizational development that led to effective project work. On the other hand it limited the ability of HRAW NGOs to be more embedded in the communities they served (or claimed to serve). Their domestic funding base has not developed as expected.

Peter Bouchal made an attempt at a typology of watchdog NGOs based on the example of the Czech Republic in a study looking at six watchdogs which seem to be relevant for the whole region. The approach used was the level of governance addressed by the watchdogs. Bouchal writes:

In principle, the activities can be described using two criteria. One is whether the activity is oriented to the public interest in general, i.e. across institutions and public policies (corruption, conflict of interests), or to one specific area (transportation, health care). The other criterion is whether the activity is system-oriented (lobbying, legislation monitoring, education) or is focused on one specific cause (corruption affairs, discrimination cases). The latter criterion implies that there are close links between the specific cases and system changes, especially in strategic litigation. Where the funding of watchdog organizations is concerned, it is important to

realize that the type of issue the organization is currently dealing with signals which source of funding might lead to a potential conflict of interest for the organization³¹.

Bouchal identifies **elements of activities that are common for watchdog NGOs** and that might be taken as relevant for the whole region:

Time dimension: litigation and lobbying are time consuming activities as courts work slowly and legislation processes take a long time. This affects the results of projects. Since donors are often unable or unwilling to support one project for several subsidy periods, some projects are left unfinished.

Consistency: work for the public interest goes across projects, strategic litigation needs to address cases which do not happen to fit into projects currently under way but which deserve long-term attention. This imposes restrictions on things like employment of volunteers.

Need for Continuity: issues related to the public interest require long-term attention – if funding is withdrawn at the same time, all efforts so far made might go in vain. But donors like to think that once they provided the funding for a particular project in a specific area, they are no longer needed. Thus, should organizations ask for more money for the same area, this will make donors think this is because the work so far has not been successful.

Low measurability (visibility) of results: although some types of results in watchdog organizations are measurable (concrete changes to the wording of legislation, court ruling in favor of the party supported, number of press citations), the total impact of work related to the public interest on the state of public affairs is not measurable and will only show in a long-term perspective. Neither are results of watchdog activities something that the donors can attach their names to in everyday communication, at least not as easily as with children's playgrounds, cycling paths or culture events.

Lack of ability to appeal to the general public: there is a paradox here³²: although the vast majority of people recognize the problems involved in governance and the unsatisfactory state of the Czech Republic's rule of law, very few people are actually ready to make a personal contribution or to support those who strive for improvement³³. (Part of the problem is that there are no opinion polls on the attitude the public has towards this very part of the non-profit sector; what is known is mostly restricted to jokes; last but not least, watchdog and advocacy organizations are rarely mentioned in academic writing on the non-profit sector.)³⁴

³¹ In addition to the specific focus, activities can be categorized based on how much they might lead to conflicts with the source of funding, i.e. with governance bodies (anti-corruption campaigns, conflicts of interests) or businesses (antidiscrimination, environment-related legislation and legal counseling). In general, sector-specific and case-related activities run a risk of conflicts of interests in corporate funding, whereas system-oriented, anticorruption-oriented activities and those related to no specific area are more prone to conflicts of interests with state authorities if these are the sources of funding. In: „Happy Watchdog (without the Muzzle): The Work and Funding of Watchdog and Advocacy NGOs in the Czech Republic by Petr Bouchal, Open Society Fund, Prague, 2009

³² The point – and the use of the notion of *rule of law* in the Czech society – is further discussed in an essay by Jaroslav Spurný called “Právní stát jsem já” [I am the rule of law], the Czech magazine *Respekt* 2/2009, Jan 3, 2009

³³ See Cadová, Naděžda, “Hodnocení vývoje některých oblastí veřejného života za rok 2005” [Some areas of public life in 2005: development evaluation] in *Naše společnost* 2006, vol. 1. Between 3-10 percent of respondents said they were satisfied with the court system, state of corruption and economic crime, the same number of respondents expecting improvement. Almost half of those who did not expect improvement said they expected things would get worse whereas more than half said they expected things would remain the same. The satisfaction rates were almost identical a year later.

³⁴ See Rakušanová, Petra, “Organizovaná občanská společnost v České republice po vstupu do Evropské unie” [Organized civil society in the Czech Republic after the EU entry] in Zdenka Mansfeldová and Aleš Kroupa, eds., *Proměny reprezentace zájmů po vstupu do Evropské unie* [Changing interest representation after the EU entry]; Vajdová Tereza, *Česká občanská*

The above illustrate the type of funding that could be considered as “ideal” in terms of meeting the needs of HRAW NGOs to support their effective work and further development: long-term, impact oriented, ongoing core support that is not without expectations regarding the effectiveness of the organization but it recognizes the limitations of the nature of this work. Unfortunately, as seen below, the number of funders who would be able provide this type of support is very limited and shrinking across the region. It is the central strategic question for the HRAW community how to address this increasing gap in funding their core mission.

IV. 4. Sustainability of HRAW NGOs

The sustainability of NGOs is a broad concept that is most often understood in relationship with the ability and capacity of an NGO to secure resources of implementing its mission. This popular and to some extent simplified understanding emphasizes the financial sustainability aspect, which, however important, is not the only element of sustainability of an organization or group of organizations.

For the purposes of this study it is useful to distinguish the concept of sustainability on two levels:

- 1) Sustainability of human rights, accountability and watchdog NGOs (HRAW NGOs) (i.e. micro-level, organizational level). There are various approaches on this level. For example, one of them looks at good performance in program/mission delivery, resources availability and use, organizational sustainability and effectiveness³⁵. Another recent approach based on empirical research among nonprofits emphasizes the leadership, adaptability and program capacity.³⁶ According to the definition of consortium member CSDF Hungary, sustainability is a capacity rather than a state of the NGO: “the capacity to learn and to make a difference”.³⁷
- 2) Another level is the sustainability of HRAW NGOs as a part of the sustainability of the NGO sector as such (macro-level). One of the broadly used models is provided by the USAID NGO Sustainability Index³⁸ (there are other indexes that measure civil society activity – which is a broader than NGOs –, such as the CIVICUS index, mentioned earlier, that looks at structure, values, environment and impact).

At both levels and at the different approaches at these levels, the resource dimension (financial viability, adaptability, ability to generate revenue for its mission, resource mobilization capacity, etc.) plays a key role and is not replaceable by any other element. However it is not a sufficient condition to ensure that a particular NGO or the NGO sector is considered „sustainable“. Enabling elements of the context (environment, socio-political, regulatory, legal, etc.) and of the organization (leadership, culture, strategy etc) also play an important role.

In terms of NGO financial sustainability in particular, there are also various models of what is being considered as most important or what is being measured as important elements in describing it³⁹.

společnost po 15 letech vývoje. Zpráva z projektu CIVICUS Civil Society Index pro Českou republiku [Czech civil society: 15 years of existence. The Civil Society Index CIVICUS project: report on the Czech Republic], Prague 2005.

³⁵ Program of Institutional Strengthening, Ekopolis Foundation and Center for Philanthropy, funded by the CEE Trust, Slovakia, 2002-2004

³⁶ TCC Group, The Sustainability Formula, 2009, <http://www.tccgrp.com/pubs/evaluation.php>

³⁷ Training handout on NGO Sustainability, CSDF Hungary, 2008

³⁸ Legal environment, Organizational capacity, Financial viability, Advocacy, Service Provision, Infrastructure, Public Image

³⁹ Counterpart International features a financial sustainability model based on combination of elements of partnership and network development, legal and regulatory framework, financial sustainability planning, social enterprise, membership development, traditional fundraising, and strategic donor fundraising.

<http://siteresources.worldbank.org/INTGLDEVLEARN/Resources/Financial0Sust2entation02Apr0522ENG.pdf> Another model is the http://www.pathfind.org/site/DocServer/Fundamentals_of_NGO_Financial_Sustainability.pdf?docID=12001

These models suggest a way of thinking that shall help NGOs to change their practice to identify new resources and diversify them. In fact, diversifying resources is a key common element in the different models.

In terms of mechanisms that promote financial sustainability, CSDF Hungary and ICNL have identified the following⁴⁰:

- Government Funding
 - National Funds and Public Foundations
 - Government Contracts
 - Percentage Tax Philanthropy
- Private Philanthropy
 - Private Foundations
 - Corporate giving
 - Individual donations
- Self-Generated Income
 - Selling services and goods
 - Social Enterprises
 - Investment Income
 - Membership Fees
- Volunteerism

Most of these mechanisms are available in the 10 new EU member states, besides the available international funding. However, their profile in different countries varies significantly and their relevance for the HRAW NGOs is also very different and sometimes problematic.

Bouchal's study that looked specifically at the funding of watchdog NGOs in the Czech Republic identified the following as key resources¹ (for more information, see the Czech Republic report in Annex IV):

- EU funds (structural funds, EC initiatives funds, including Norwegian and Swiss financial mechanisms)
- Foundations (OSI, CEE Trust, Open Society Fund, etc.)
- Public funding (domestic and foreign)
- Own earned income (mainly training, consulting, education, services)
- Gifts and Donations from private philanthropy (individuals and corporate)
- Other

In its analysis it identified three possible alternatives for Czech watchdog NGOs:

- Corporate Watchdog Fund (pooled funds from corporate donors)
- Government funding for watchdogs from national public budget or EU funding
- Gifts, contributions and donations from public at large

⁴⁰ CSDF Hungary Training Manual, 2002 and Moore, D.: Laws and Other Mechanisms for Promoting NGO Financial Sustainability, ICNL, 2005

examined. HRAW NGOs get less support – moral and material - from the public and business sector than other, typically charitable and service oriented NGOs. HRAW NGOs deal with minority issues that are perceived by the majority public as uncomfortable, conflicting and controversial. Yet even many of the possible donors that support less unpleasant, conflicting or controversial issues do not support HRAW NGOs. As one of the reports puts it - it is a challenge to work in a society that is barely sensitive to issues of human rights or good governance.

The country reports show that HRAW NGOs face a dilemma of what to do in the situation of missing resources: whether to continue with their mission with very limited resources or to attract resources but for slightly different activities, trying to indirectly support their original mission. This dilemma entails a great risk of following the funding rather than the need and has not been clearly addressed.

The worsening conditions for HRAW NGOs sometimes also bring a paradoxical effect of strengthening these organizations, but at the cost of organizational and personal exhaustion. There is also a generational issue in some countries – the older human rights protection generation is strong in leadership qualities and has high reputation capital. However, it sometimes lacks the capacity of modern and effective management.

In terms of communication and media relations, HRAW NGOs show different approaches and levels of development – ranging from very effective to rather poor practices. Those that pay attention to communication, either through their web or traditional or new media report slightly better conditions, however, the financial return of this effort is not particularly significant. At the same time this is the area where the largest potential rests to strengthen the buy-in of domestic public into HRAW NGO issues.

IV. 5. Funding Sources for HRAW NGOs

The structure of funding sources of HRAWs in the region have partly changed after the departure of major foreign private donors. For the purposes of this study we identified three main categories of funding⁴¹:

- A) Public
- B) Private
- C) Self-Financing

Public or private funding includes also several sub-categories, depending on the origin of the funding (domestic, foreign) or on the type of the source (EU, percentage tax, subsidies, etc.). In the Table IV.1. below we are summarising the relevance of key sources by country that were identified based on the country reports. It must be noted that there was **no consistent hard data available** in these countries on the amounts and percentages of the different funding sources used by the HRAW NGOs. Even if there were some data available on the NGO sector as a whole (Hungary, Poland, Estonia), there was no specific information regarding HRAW NGOs; and data from the different countries were not comparable with each other due to different approach and methodology of data gathering. Therefore, we found it more practical to indicate the relevance of the sources based on the information from the country (including desk review and interviews) through simple symbols ranging from “not being used” to “highly relevant” (see Table IV.1.).

The start-up funding for HRAW NGOs „historically“ in the region has been **foreign private funding**, mostly coming from U.S. private foundations (but also US and European governments aid programmes). The departure of the foreign funding at the time of the regions' entry into the EU has thus been a major

⁴¹ For detailed summary see Table 1. The interest of our analysis was primarily in identifying the existing and potential *domestic* sources of funding. However, during the data collection we found that the HRAWs need to use *any* available funding to pursue their mission and therefore we looked at all kinds of available funding.

factor in the life of HRAW NGOs. However, foreign funding have not left the region completely, but it has **changed its structure**. The private foundations have decreased their presence only partly. Some of them remained present (OSI, Mott) or formed a trust fund to continue funding (CEE Trust, Balkan Trust for Democracy, Black Sea Trust), but some with **phase-out dates**. However, it is still this category of funding that is considered **most useful and relevant** in most countries by the HRAW NGOs. In fact, this was the only source that was labelled as “frequently used” and “highly relevant” in all the countries, which also reflects a great degree of dependence on such funding. The foreign governments bi-lateral aid development programs (such as USAID, Matra, etc.) have generally phased out by the time of the regions’ entry into the EU.

A new type of foreign funding has been represented by the EU structural funds (though it is debatable whether this is foreign or domestic governmental funding) and the EU stimulated funds – Norwegian and EEA Financial mechanisms, Swiss Financial Mechanism; and through funds which came to the region through the various channels of the European Commission and its programs and networks (calls for proposals from various Directorates-General (DGs) – Justice and Home Affairs, Employment, Social Affairs and Equal Opportunities, etc.).

In terms of its relevance, **EU structural funds in the region are not perceived as very useful to HRAW NGOs**, with the notable exception of Poland where NGOs lobbied successfully to introduce a special scheme to support their development. In all the other countries, those that use these funds report delays in payments, excessive bureaucracy and irrational and erratic administrative and reporting requirements, formalism and cronyism (when administered in-country). The perception of this funding within the HRAW NGOs is that these funds are inappropriate for NGO funding as such, not just for the HRAW NGOs. The regulations and conditions attached to these funds are rather complicated already at the EU level and they get more complicated once they reach the national level. The matching requirements for the EU structural funds are also hard to meet by HRAW NGOs as their reserves were spent to cover the delays in payments of previous EU funded projects; private sources’ share in funding of HRAW NGOs is limited and public funds are not accepted as eligible matching. Thus, they end up in a vacuum.

At the same time, the NGO Funds of the **Norwegian Financial Mechanism and the EEA grants are generally seen as helpful sources**, especially where their administration has been contracted to domestic grant-making foundations (Slovakia, Czech Republic, Romania, Bulgaria), which is considered by the HRAW community as a good practice. Part of these grants were directed to support disadvantaged groups and human rights issues, and some HRAW NGOs have taken the opportunity and used these funds. Although in some countries the funding was brought down with very demanding administrative and reporting requirements that the intermediaries transferred on to their recipients, they are frequently used in seven out of ten countries and several interviewees reported that they helped NGOs survive the funding gap that came about upon joining the EU and the leaving of the previous foreign funding. While the Swiss mechanism has more recently started or is about to start in most countries, NGOs look to it with similar optimism. The major setback of these mechanisms is their **temporary nature**: they have been designed as assistance in the transition for a period of 3-6 years only.

EU funding from the European Commission has different rules than the Structural Funds, which are channelled through the national governments. Those EU funds administered directly by the different DGs of the European Commission are mainly provided to organizations that pursue Europe-wide issues and have branches or affiliates in more than one European country, or whose results – although achieved in a single country – have Europe-wide applicability. On the one hand, this might look like a limitation; on the other, this may propel organizations to join European networks and pursue more Europe-wide issues⁴². These are relevant funding sources and frequently used, except for those

⁴² Bouchal P. “Watchdog without a Muzzle”, OSF, Prague, 2009

countries (e.g., Poland, Hungary) where other domestic sources provide easier access. In addition, from the research conducted in this project (including the advocacy survey) it can be seen that many HRAW NGOs consider these funds as **an important potential source due to its independence from domestic authorities**. However, problems lay in access due to bureaucratic and procedural issues. See also Chapter V on EU Funding for HRAW NGOs.

Domestic public funding— apart from the Structural Funds - is reported in less cases as relevant for the HRAW NGOs in the region (Hungary, Romania, Estonia, Czech Republic). Hungary and Estonia stood out as countries where there were more opportunities for funding for HRAW NGOs, but that has recently changed in Hungary. Sometimes it has a form of specific programs attached to government agencies or the Parliament or it takes place as the co-funding to the European structural funds and other funds (e.g., the Norwegian Financial Mechanism). In general, due to the mentioned dilemmas regarding independence, this source is not considered as a major source to support sustainability of HRAW NGOs.

The **percentage philanthropy** is available only in Hungary, Slovakia, Romania, Lithuania and Poland. In these countries it is considered as only partly relevant for HRAW NGOs. Its main benefit is that it creates a link between the organizations and their constituencies; however, only a few HRAW NGOs are able to take advantage of this benefit. NGOs benefitting from percentage philanthropy tend to be charities with a more popular cause (children, animals), or community based organizations (schools, local associations).

Corporate sources are reported as not particularly relevant for HRAW organizations' funding. There are some cases, but rather exceptional ones.

Individual support for HRAW NGOs is available in the region, but is limited and relatively insignificant compared to other sources. However, those HRAW NGOs that have a stronger public communication do enjoy also more support from individuals than those that communicate less. Despite its current limitations, individual giving remains as **a strategic area for the HRAW NGOs over long-term**. To tap this effectively requires time and investments into the fundraising capacities of HRAW NGOs. There are a few organizations already that are very effective in tapping into this potential: those working with their constituencies such as the Hungarian Civil Liberties Union (TASZ) or Estonian Patients Advocacy Organization, as well as NGOs active in environmental protection such as Greenpeace or Forest protection Association Wolf in Slovakia. These were able to build a network of individual supporters that are regularly kept involved and informed.

Domestic grant-making independent foundations are perceived as a potentially useful source of funding of HRAW organizations, and probably could be even more relevant than individual giving. However, they are present only in some of the countries and even there their funding is limited (e.g., Czech Republic, Poland). The Bathori Foundation in Poland is a unique model in the region with its program supporting specifically watchdog organizations. Although as yet unique, its example illustrates the potential importance of this type of funding source for the HRAW community.

Self-financing is becoming one of the strategies of those HRAW NGOs that have products or services (research, analysis) that can be offered to various clients and to generate some income by which they can cover holes in their budgets. The negative aspect of self-financing in Slovakia is that it divers the capacity of HRAW NGOs onto activities that are not necessarily advancing their mission. Self-financing on the other hand, enhances professionalism and effectiveness in organizations. Overall, it seems that self-financing is a path that only some HRAW NGOs can successfully pursue.

One of the common features of funding of HRAW NGOs in the region is that it is project based. There is very little or almost non-existent general operating support funding. Project based funding leaves little capacity for internal development and strengthening of organizational capacity. On the other hand it puts a pressure on its recipients to act in a very effective manner and cut on the costs. It is the

opinion of the authors of this report that this pressure has already exhausted its marginal utility and is becoming counterproductive – i.e. it is quite possible that it slows down the development of these organizations.

There are also some specific limitations of HRAW NGOs in securing resources that are self-imposed in order to avoid a conflict of interest, when the watchdog or advocacy role is concerned. For example corporate funding is hard to accept in cases when public interest is defended against private corporations that find holes in the regulatory framework to achieve their commercial goals.

Another factor in the ability of securing funding for HRAW NGOs relates to their specific focus on watchdog or human rights activities. NGOs, which have a broader portfolio of activities including education, research or analysis, have more and better opportunities for securing resources for their work – including possibilities of their self-financing. However, NGOs that want to focus only on watchdog activities, have their funding resources more limited and depend exclusively on their donors – which are either foreign sources or, increasingly, the public sector - while the private sector is not at the moment the key donor for them. With such strategy, it is possible that they will need to shrink their activities.

	Estonia	Latvia	Lithuania	Czech	Poland	Slovakia	Hungary	Slovenia	Romania	Bulgaria
A. Public										
1. National Government Subsidies and Programs (Agency for Government Strategies Romania, Lower Chamber of Parliament, ...)	+++	+	+	++	+	+	+++	+	++	+
2. EU programs and networks related to Commission or other Inter-governmental Organizations' programs (Life Long Learning Program, ENAR, EPIM, Youth in Action, Europe for Citizens, UNDP, UNDFW, OSCE, ...)	++	++	++	++	+	++	+	++	++	++
3. EU Structural Funding (Operational Program Administrative Capacity, Measures for Developing Administrative Capacity of Public Administration)	++	+	+	++	+++	⊖	+	?	+	+
4. Norwegian and EFTA Financial Mechanism (NGO Fund)	++	+	+	++	++	++	++	++	++	+
5. Swiss Financial Mechanism (NGO Fund)	?	?	?	?	+	++	?	?	?	++
6. Percentage Tax (1%, Hungary, Poland, Lithuania 2% Romania, Slovakia)	⊖	⊖	+	⊖	+	++	+	⊖	+	⊖
7. Foreign Government Bi-Lateral Programs and Agencies (German „political“ foundations, National Democratic Institute, International Republic Institute,)	+	+	+	+	⊖	⊖	⊖	?	+	++
B. Private										
1. Domestic Corporations	+	+/⊖	⊖	+/⊖	+/⊖	⊖	+/⊖	⊖	+	⊖
2. Multi-national Corporations (active in-country)	?	+/⊖	⊖	+/⊖	?	⊖	+/⊖	⊖	+	⊖

3. Domestic individuals – public at-large (smaller gifts)	?	+/⊖	⊖	+/⊖	⊖	+	+	+	+	⊖
4. Domestic individuals (larger gifts)	?	+/⊖	⊖	+/⊖	⊖	+	+	+	+	⊖
5. Domestic independent foundations (National Soros Foundations, America for Bulgaria Foundation, ...)	⊖	⊖	⊖	++	+++	+	⊖	⊖	+	+++
6. Foreign foundations (OSI, CEE Trust, Balkan Trust, Mama Cash, Global Fund for Women, Oxfam-Novib, ...etc.	+++	+++	+++	+++	++	+++	+++	++	+++	+++
C. Self-Financing										
1. Service provision	?	?	?	+	⊖	+	+	?	+	++

Table IV.1: Funding Sources of Human Rights, Accountability and Watchdog NGOs – Expert Rating

- Legend:
- ⊖ the source is not used in funding of HRAW NGOs
 - +
 - ++ the source is frequently used in the funding of HRAW NGOs, some limits of its use
 - +++ the sources highly relevant and highly used
 - ? not enough data

IV. 6. Conclusions

There is no single best strategy for HRAW organizations in the region as far their domestic funding is concerned. **Domestic funding for these organizations will remain a limited and challenging source in the foreseeable future.**

Domestic **private funding**, especially from individuals seems to emerge as the most promising and effective as far its impact on the HRAW NGOs is concerned – both in terms of their shared goal of citizens' engagement in their activities, and in terms of their transparency and communication of their benefit to the general public. However, signs from the region show that this is **going to take a long time**. Corporate funding options do not seem to be as persuasive compared to private (non-company) foundations or individual support.

In the meanwhile domestic **public funding seems to be the most feasible source of income that is already available**. However, there are issues related to conflict of interest of HRAW NGOs when accepting public funding. There are voices among HRAW NGOs encouraging the role of the state in funding HRAW issues, who believe the conflict of interest is a manageable „risk“ of such approach and can be successfully avoided. On the other hand there are voices calling for caution when public funds are used for watchdog or human rights advocacy due to low political cultures in the region and the capture by political and bureaucratic elites of the public funds.

Earned income appears to be a plausible option for some of the HRAW organizations, however, with drawbacks related to the capacity drain of the human resources that could otherwise be deployed for pursuing the human rights or watchdog / accountability mission.

A relevant source in order to sustain the HRAW activities and complementing the above „strategic options“ is **external: foreign, and most specifically EU funding**. The externality of the funding allows for a more independent course of action from national and in-country influences – which would be an important benefit. It seems quite clear that external funding also brings its agenda – however, once the agenda is coherent with the broader European values, such funding can successfully avoid the conflict of interest concern and **allow the HRAW NGOs to effectively perform their role in-country**. The negative side of the funding is that it will not stimulate HRAW NGOs for a greater buy-in and engagement with the public. Even so, it seems as **one of the most feasible possible options to ensure that the voice of the HRAW NGOs in the region will still be heard**. Chapter V of this Study analyses this type of funding in more detail.

V. EU Funding for HRAW NGOs

In the following section, the research aims to provide an analysis of funding resources and programs available for HRAW NGOs on the EU level, and recommendations for advocacy to improve them.

V.1. Summary of Findings

The majority of human rights funding of the European Union is directed at the external actions. It is hard to clearly delineate what funding is directed at promoting and protecting human rights at the EU level. However, of those programs that have an explicit human rights focus, the largest is by far that of the EIDHR, totaling €1,104 million for the period 2007-2013. In comparison, the key human rights funding instrument directed at EU member states, the Fundamental Rights and Justice Framework Programme totals less than one tenth of that budget, € 93,8 million for the same period. With other funding programmes that also have relevance to this field, the total amount of funding available to promote and protect human rights within the EU would be around €200 million; this is small compared not only to EIDHR but also to the funding dedicated to further other European objectives.

The Commission does not fund NGOs in new member states at the same level as their old member states counterparts. The research carried out by Syracuse University scholars concluded that the Commission is not funding civil society organizations at an equal level or rate across all member states. In fact, based on data of 2003-2007 of some 1,164 NGOs only some 15 % of EC grants reached organizations in the CEE region, the rest was allocated to the old member states.⁴³ As recent data for 2007-2010 shows, this tendency is gradually changing, however, the funding for NGOs in the old member states still considerably exceeds the amounts disbursed for NGOs in NMS. For instance, the amount of action grants distributed by EACEA under Europe for Citizens Program in 2007- 2013 Action 2 Active Civil Society in Europe for selected Western European countries is triple of the amount distributed to the NMS NGOs. (See the Case Study of EACEA: Europe for Citizens Program in 2007- 2013. Action 2 Active Civil Society in Europe).

Most institutional funding is distributed to the NGOs in Western Europe. Operating grants are provided by the Commission to the organizations that pursue the general European interest and contribute to implementation of the EC programs. Understandably, such EU level organizations, platforms oftentimes are based closer to the key decision maker, such as the European Commission, which results in the majority of operating grants being disbursed to the organizations in Belgium or France. However, on the other hand most of NMS NGOs receive insignificant or no funding for their institutional costs from the EC. Based on the cumulative data for 2007-2010 obtained from the EACEA only 5% of the total amount of operating grants under Action 2 of Europe for Citizens Program was distributed to the NMS. (See the Case Study of EACEA: Europe for Citizens Program in 2007- 2013. Action 2 Active Civil Society in Europe).

HRAW NGOs face serious hurdles in accessing and managing EU funds due to the onerous financing regulations. The flash survey and other research conducted by ECNL and the Project revealed a host of rules relating to applying for, managing and reporting on EU funds that constitute a serious obstacle in accessing and effectively managing their funds. These include an unrealistically low cap on administrative (overhead) expenses; a prescription of arbitrary exchange rates; difficult co-

⁴³ Following the Money: EU Funding of Civil Society Organizations;
http://www.unc.edu/euce/eusa2009/papers/mahoney_05F.pdf

financing and pre-financing requirements; and delays in decision-making, contracting and payments, among others. Ultimately, many NGOs decide not to undertake EU funding as it would undermine rather than assist their sustainability.

HRAW NGOs in NMS have limited capacity and resources to effectively represent their interests and agenda at the EU level. Having recently joined the European Community the NGOs from the new member states oftentimes have basic or no knowledge on how to advocate for their agenda at the EU level. There are few channels for HRAW NGOs to get involved in shaping EU policies in terms of program objectives and funding opportunities. At present there is no HRAW specific NGO group that could represent interests of these NGOs vis-a-vis the EU. NGOs in the NMS are typically not even aware of the possibilities available, e.g. the public consultation regarding the future of the Justice and Citizenship Programme or the review of the Financial Regulations (see below).

V.2. Types of Resources Available for HRAW NGOs

V.2.1. General information on EC funding

According to the EU's estimates, over € 1, 000 million a year is allocated to NGO projects directly by the Commission. The most substantial allocations are in the field of external relations for development co-operation, human rights, democracy programs, and, in particular, humanitarian aid (€ 400 million).⁴⁴

Financial allocations can be distributed either through **grants or contracts**. A grant is a financial contribution by the Contracting Authority to a specific recipient, generally selected through a call for proposals, to implement an action that furthers the interests of the EU or contributes to the implementation of an EU program or policy. A contract on the other hand is the outcome of a procurement procedure (call for tender), where the Contracting Authority purchases goods or services (studies, technical assistance and training; consultancy, etc.) in return of payment.⁴⁵

NGOs may apply for two types of grants: either an **operating grant** that provides institutional support for organizations that are active on the European level and pursue an aim of general European interest or an **action grant** that co-finances the specific project activity of an NGO.

Funding can also be categorized according to the level the funds are managed on: **structural funds** are administered by the national authorities, whereas in case of EC grants, applicants are in contact directly with the European Commission, the executive agency running the program in question or EC Delegation in case the project is administered outside of the EU. Due to the scope of this paper and abundance and complexity of distribution through national authorities, this analysis covers **direct EC funding** opportunities only.

V.2.2. Human rights funding instruments

NGOs active in the defence and promotion of human rights through their advocacy or research work are **key actors in the in the democratic functioning of the European Union and its MSs**. They depend on a variety of financial sources, including EU funding opportunities. However, as it will be analysed in

⁴⁴ "New funds, better rules - Overview of new financial rules and funding opportunities 2007-2013, A Beginner's Guide, 2008 edition". http://ec.europa.eu/budget/library/publications/financial_pub/pack_rules_funds_en.pdf

⁴⁵ European Commission: Contracts and grants, http://ec.europa.eu/contracts_grants/index_en.htm

detail further, available EU-level funding for HRAW organizations is scarce, its conditions are sometimes unsustainable and often not adequate for their work.

There are four DGs most actively involved in human rights policy and funding issues:

- European External Action Service⁴⁶;
- DG Development and Cooperation - EuropeAid⁴⁷;
- DG Employment, Social Affairs and Inclusion⁴⁸;
- DG Justice.

Although the EU actively promotes human rights issues both within and outside its borders, the **focus is clearly on the promotion of human rights in its external policies**. For instance, the European Instrument for Democracy and Human Rights (**EIDHR**), managed by DG Development and Cooperation - EuropeAid, is benefiting from a budget of **€1,104 billion for the 2007-2013 period**. At the level of the Council of the European Union the Human Rights Working Group (COHOM) was created in 1987 that is specifically responsible for human rights issues in the EU's external actions⁴⁹. Other framework programs addressing general human rights issues on the EU level are managing considerably smaller budgets. Despite the fact that the Commission acknowledges the particular role of civil society in the field of human rights and democracy, and recognizes NGOs, as important implementers of EC programs,⁵⁰ no priority is given to tailor-made programs addressing these crucial issues within the MSs or the European-level.

Currently, the priority human rights areas in the EU and its MSs are combating **racism and xenophobia** and other types of **discrimination based on religion, gender, age, disability or sexual orientation**; and human rights in the area of **asylum and migration**.⁵¹

The main sources of funding for achieving these priorities under general EU budget are the **Fundamental Rights and Citizenship Funding Programme (FRC)**⁵² and **Daphne III Funding Programme** managed by DG Justice; the **Programme for Employment and Social Solidarity (PROGRESS)**⁵³ managed by DG Employment; and **Europe for Citizens Programme**⁵⁴ managed by the Education, Audiovisual and Culture Executive Agency (EACEA).

The **FRC program**⁵⁵ features objectives that can be considered most relevant for HRAW NGOs throughout Europe. It promotes citizens' **access to information** about fundamental rights and supports NGOs in the promotion of the rule of law and democracy in order to foster a European society based on **respect for fundamental rights**.⁵⁶ The instrument supports fight against **racism, anti-Semitism and homophobia, protection of the rights of the child, data protection and privacy rights**. It also promotes active participation in the democratic life of the European Union, training and networking between legal professions and legal practitioners. The FRC program uses *action grants* (for activities such as trainings, awareness raising campaigns, preparation and dissemination of good practice

⁴⁶ Formerly known as DG for External Relations (DG Relex), transformed into EEAS as of December 1, 2010.

⁴⁷ The DG was formed on January 1, 2011 by merger of DG for Development and Relations with African, Caribbean and Pacific States (DG Dev) and EuropeAid Cooperation Office.

⁴⁸ Formerly known as DG Employment, Social Affairs and Equal Opportunities.

⁴⁹ The Human Rights Working Group (COHOM): http://eeas.europa.eu/human_rights/workgroup/index_en.htm

⁵⁰ Minutes of Consultation Meeting with civil society organizations on EIDHR 2010 Annual Action Program, 2 Oct 2009, http://ec.europa.eu/europeaid/what/human-rights/documents/minutes_cso_consultation_2_10_09_en.pdf

⁵¹ Activities of the European Union – Human rights: http://europa.eu/pol/rights/index_en.htm

⁵² DG Justice: http://ec.europa.eu/justice_home/funding/intro/funding_rights_en.htm

⁵³ DG Employment, Social Affairs and Inclusion – PROGRESS: <http://ec.europa.eu/social/main.jsp?catId=327>

⁵⁴ EACEA webpage: http://eacea.ec.europa.eu/citizenship/index_en.php

⁵⁵ DG Justice- Fundamental Rights and Citizenship: http://ec.europa.eu/justice/grants/programmes/fundamental-citizenship/index_en.htm

⁵⁶ 2010 Work Programme for FRC, http://ec.europa.eu/justice_home/funding/rights/doc/awp_rights_2010_en.pdf

surveys and analyses) as well as *operating grants* to support initiatives addressing its thematic priority areas. Its budget has been €93,8 M for the period 2007-2013, the smallest among those available for HRAW NGOs.

The objectives pursued by the **European Union Agency for Fundamental Rights (FRA, see Annex V)** are in many cases complementary to some of the objectives of the FRC program. However, even though the goals of the FRA may fit in well with the mission of HRAW NGOs, funding under FRA is available occasionally for **comparative research** across a range of thematic areas in the context of the European Union Charter of Fundamental Rights, rather than watchdog activities.

Diversity, non-discrimination of the Roma and people with disabilities as well as gender equality are issues tackled on the policy level by the DG Employment. One of the most significant funding instruments this DG is responsible for is **PROGRESS**, an EU program to promote more and better jobs and a fairer, more inclusive society. **Non-discrimination** and **gender equality** are two of the five priority areas⁵⁷ of PROGRESS. The program aims to provide evidence and data underpinning the Commission's legislation making process, promote high-quality and participatory policy debate at EU and national level, ensure greater capacity for the networks promoting PROGRESS priorities, support effective information sharing and learning opportunities and, finally, ensure better integration of cross-cutting issues.⁵⁸ In terms of activities supported, PROGRESS first and foremost finances a range of thematic and comparative policy research and analysis studies in these thematic areas and does not prioritise classical watchdog activities. The budget available for the two most relevant programs (diversity and gender) totals €260 million, about 35% of the total budget of PROGRESS for 2007-2013.

The Europe for Citizens Programme in 2007- 2013 aims to develop citizenship of the European Union, enforce a sense of European identity, foster a sense of ownership of the European Union among its citizens and enhance tolerance and mutual understanding between European citizens. The Programme is managed by DG for Communication through the Education, Audiovisual and Culture Executive Agency (EACEA). The Programme's budget for the five year period is €215 million. Current areas of engagement include:

- Active European Citizenship: participation and democracy in Europe;
- Inter-cultural dialogue;
- People's wellbeing in Europe: employment, social cohesion and sustainable development;
- Impact of EU policies in societies.

At present these programmes are the main sources available through the central EU budget for potential funding of NGOs in order to pursue actions in the areas of human rights, good governance and accountability.

V.2.3 Amount of funding available for HR programs on the EU level

The **FRC program** has €93,8 million at its disposal for the 7-year financial period. The total amount available for 2012 is **€15,3 million**, out of which €12,2 million is allocated for action grants, €1 million for operating grants and about €2 million for contracts to carry out the Commission's own initiatives, i.e. preparing various studies, surveys and organizing events.⁵⁹

According to the DG's Work Plan, supported actions must be transnational and involve organizations from at least two EU countries, run up to 24 months for action grants or up to 12 months for operating

⁵⁷ The other three priorities are employment; social inclusion and protection; and working conditions.

⁵⁸ PROGRESS Funding Priorities for 2012 Annual Plan of Work:

<http://ec.europa.eu/social/BlobServlet?docId=7467&langId=en>

⁵⁹ 2012 Work Programme for FRC: <http://ec.europa.eu/justice/newsroom/files/frcwp2012.en.pdf>

grants, the required cost-share ratio is 20% and the budget should be not lower than €75,000 for action grants and not higher than €250,000 for operating grants. Contributions in kind cannot be considered as eligible nor can they be used as co-financing. Furthermore, there is a 7% cap on indirect expenses, which does not allow the majority of NGOs to fully recover their indirect costs from project income. The combined impact of these barriers poses significant burdens on beneficiaries that limit their ability to successfully carry out future actions.⁶⁰ Despite these considerable financial challenges and the fact that the calls for proposals are not custom-made for HRAW NGOs, this funding stream might be a good choice for **human rights organizations seeking EU support for larger-scale transnational projects**. However, it does not offer funding for NGOs working on classical accountability matters.

As for DG Employment, PROGRESS has a €743 million budget for 2007-2013 with €99,2 million to be spent in 2012. In 2012 **nearly one quarter of the total budget is being devoted to combating discrimination (€ 21,55 million) with envisioned number of activities 21 and over 10% to gender equality issues (€ 12,78 million) with envisioned number of activities 12;**⁶¹ however, the majority of the funding is allocated for the other three big priorities of the instrument: employment, social inclusion and protection and working conditions. It is also worth noting that a considerable percentage of the yearly budget is assigned for operating grants and calls for tenders which are even more difficult for HRAW NGOs to access than project funding.⁶² PROGRESS also awards grants without publishing any calls for proposals to bodies with a de jure or de facto monopoly: for example, restricted calls for proposals for national authorities in charge of non-discrimination issues. Concretely, in 2012 there will be no open calls for grant proposals under non-discrimination or gender equality areas. All in all, while PROGRESS tackles issues that are relevant for HRAW NGOs, **actual project funding available for watchdog organizations under this framework program is very limited.**

Another, smaller EU funding source that HRAW NGOs might consider applying for is the **Europe for Citizens** program⁶³ administered by the **Education, Audiovisual and Culture Executive Agency (EACEA)**. One of its strategic actions (“Action 2 – Active civil society in Europe”) offers operating grants for EU-level NGOs as well as action grants for cross-border activities. Action grants require co-financing and support activities up to a budget of €55,000 with a duration of maximum of 12 months and call for an obligatory partnership between at least 2 participating countries.⁶⁴ While HRAW issues are not a priority area of this funding stream, it might be a good opportunity to apply for **co-financing of an event or action the HRAW NGO is planning to carry out within the framework of another non-EU supported program.**

The Education, Audiovisual and Culture Executive Agency (EACEA) operates with supervision of the DG Communication and is in charge of running Europe for Citizens Program.

The priority issues of the Europe for Citizens Program in 2007- 2013 are:

- Active European Citizenship: participation and democracy in Europe;
- Inter-cultural dialogue;
- People’s wellbeing in Europe: employment, social cohesion and sustainable development;
- Impact of EU policies in societies

Action 2 Active Civil Society in Europe supports civil society organizations, as unique links between European citizens and the European Union. The purpose is to contribute to the emergence of a structured, coherent and active civil society at European level.

⁶⁰ See ECNL Response to the Public Consultation on the Review of the Financial Regulation, http://www.ecnl.org/dindocuments/312_ECNL%20Response%20to%20Public%20Consultation%20FR%20Review_web.pdf?PHPSESSID=c68b6dc5b2e62b954eefb8f0526d87b6

⁶¹ PROGRESS Funding Priorities for 2012 Annual Plan of Work: <http://ec.europa.eu/social/BlobServlet?docId=7467&langId=en>

⁶² Annual Work Programme of Grants and Contracts for 2012 – Programme PROGRESS, <http://ec.europa.eu/social/BlobServlet?docId=7468&langId=en>

⁶³ http://ec.europa.eu/citizenship/programme-actions/doc18_en.htm

⁶⁴ For more details please see: Europe for Citizens Programme Guide 2007-2013, http://eacea.ec.europa.eu/citizenship/programme/documents/EACEA_2008_0185_EN.pdf

V.3. Access of NMS human rights and advocacy NGOs to EU funding

V.3.1. Case study of EACEA: Europe for Citizens Program in 2007- 2013. Action 2 Active Civil Society in Europe

Based on the information provided by the DG for Communication regarding funding disbursed to NGOs in 2007-2010 under Europe for Citizens Program Action 2 Active Civil Society in Europe, a group of 12 MSs where beneficiary NGOs originated from was selected. The group includes 6 old MSs and 6 NMSs: Austria, Belgium, Czech Republic, Germany, France, Hungary, Italy, Lithuania, Latvia, Poland, Romania and the United Kingdom.

The data for 2007-2010 shows that the **amount distributed for action grants is significantly lower in the NMSs** (except for Hungary where it is comparable to the amounts distributed in France and Italy). Germany leads the group, while Lithuania, Latvia and Romania received the lowest amount of allocations during the four years. Accumulative funding for German NGOs equals to above 2 million euros, while for Poland, for instance, the accumulated funding for 4 years was less than 500,000 euros.

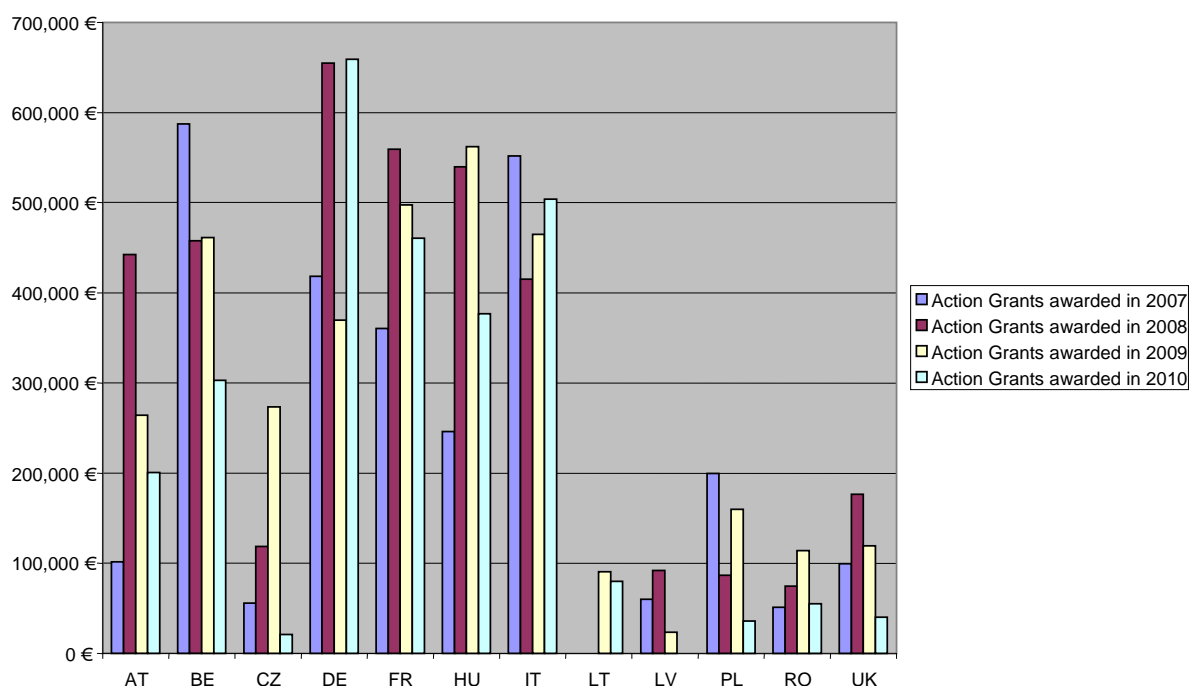


Figure V.1: EACEA Amount of Financing for Action Grant 2007-2010 under Europe for Citizens Program Action 2 (in Euros)⁶⁵

In this group, the total share of allocated funding for action grants in old member states is triple of what has been allocated to NMS in 2007-2010, c.9 million euros and c. 3 million euros correspondingly.

⁶⁵ The Figure is compiled based on the results of competitions available at EACEA page: http://eacea.ec.europa.eu/citizenship/results_compendia/results_en.php

The amounts distributed as operating grants are considerably greater in the old member states or 95% of all operating grants funding in 2007-2010.

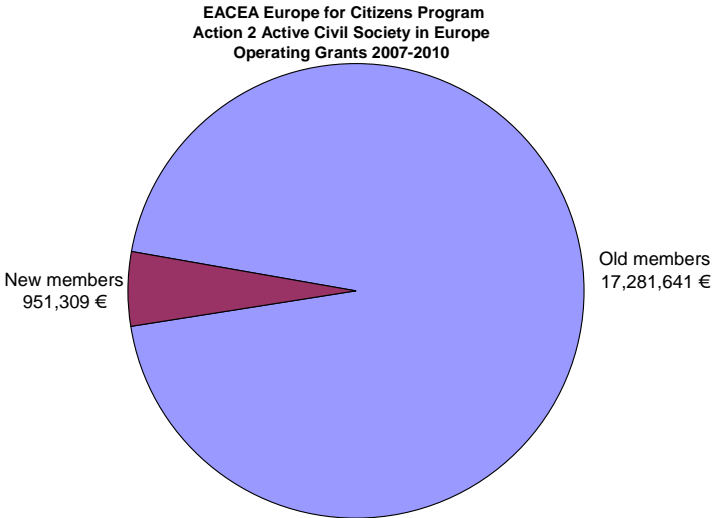


Figure V.2: EACEA Europe for Citizens Program Action 2 Active Civil Society in Europe

Looking at the per country breakdown, the clear leading country both in the amount of funding and the number of recipient organizations is Belgium that can be explained by the number of European level organizations concentrated there. Belgium is followed by France, where several larger organizations also have headquarters. As for NMS there is hardly any operating funding distributed, some countries did not receive operating funds at all in the period of 4 years, such as Latvia, Lithuania and Romania.

EACEA Operating grants amount in 2007-2010 under Europe for Citizens Program Action 2 (in euros)

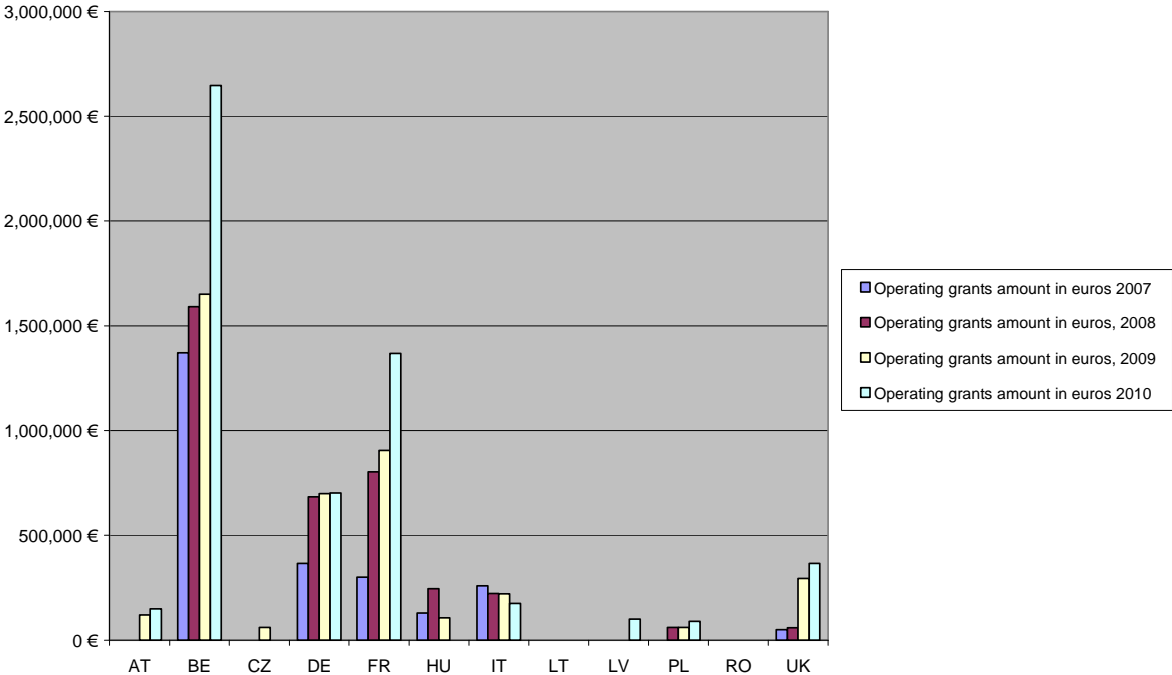


Figure V.3: EACEA Operating grants amount in 2007-2010 under Europe for Citizens Program Action 2

(in Euros)

V.3.2. Accessibility of EU Funding

Apart from NGOs, **eligible applicants for the framework programs include local and regional authorities, public employment services, national statistics offices, universities and research institutes**. Thus, there is a big competition among various actors for available grants and for HRAW NGOs to be able to successfully apply for funding under this mechanism, they would have to tailor their mission to the given call.

Moreover, it is worth noting that a substantial part of the funding is distributed through operating grants to **European umbrella NGOs**, rather than action grants. In the framework of partnership agreements within PROGRESS, DG Employment supports EU-level networks that are active in combating discrimination (€4,9 million in 2010) and promoting gender equality (€900,000).⁶⁶ The FRC program also distributes operating grants in the value of € 1 million in 2010 for EU-level NGOs.

An important feature of EU funding mechanisms is that presently there **is no preferential treatment for either organizations from the NMSs or HRAW NGOs**. The findings of a recent research on EU funding for Civil Society Organizations showed that the older MSs tend to receive the largest numbers of grants and the bulk of the EU-funding. Only 15% beneficiary organizations originated from the CEE region and their aggregated amount of funding was around 2 million euros, while the Western European organizations received close to 18 million euros in 2003-2007.⁶⁷

Although in previous years there were some financial sources specifically designed for the needs of NGOs from the NMSs, this is not the funding practice any more. Among the funding mechanisms available specifically for the new member states the following should be singled out:

- The **EU Watchdog Fund**, an example of a targeted and flexible funding stream, was a response of the Commission to a call for action from June 2003 supported by a number of NGOs from accession states, which asked the EU to create a 'Good Governance and Civil Society Fund for New Member States'.⁶⁸ The title of call for proposals launched by the Fund was "*Support of civil society in the Member States which acceded to the EU on 1st May 2004*"⁶⁹ and it was a three-year long program managed by DG Justice between 2005-2007 to support local NGO activities in the NMSs. Financial allocation distributed for proposals submitted in 2006 was €2 million and €1 million in 2007. The amount of grant awards of individual projects varied between €50,000 up to €150,000. Only NGOs were allowed to apply to lead the proposed projects; however, local authorities and universities could be involved as partners. The Fund supported advocacy actions in the field of transparency, anti-corruption, election monitoring and other issues. However after 2007 the Fund ceased to exist and was not extended.
- Another temporary financial assistance that used to be available for various actors, including HRAW NGOs, between 2004 and 2006 was known as the **Transition Facility**.⁷⁰ It was

⁶⁶ Annual Work Programme of Grants and Contracts for 2010 – Programme PROGRESS, <http://ec.europa.eu/social/BlobServlet?docId=4462&langId=en>

⁶⁷ Mahoney C., Beckstrand M, *Following the Money: EU Funding of Civil Society Organizations*, 2009; http://www.unc.edu/euce/eusa2009/papers/mahoney_05F.pdf

⁶⁸ The initiative was led by the Open Society Foundation, Slovakia.

⁶⁹ DG Justice – Support of Civil Society in the member states which acceded to the EU on 1st May 2004: http://ec.europa.eu/justice/funding/2004_2007/support_ngo/funding_support_en.htm

⁷⁰ DG for Enlargement – National Programmes, Financing Proposals and Project Fiches: http://ec.europa.eu/enlargement/how-does-it-work/financial-assistance/transition_facility_en.htm

designed for specifically for NMSs to develop and strengthen their administrative and institutional capacity to implement and enforce Community legislation in the areas of justice and home affairs, such as strengthening of the judicial system and anti-corruption strategy, environmental protection or the fight against fraud. Financial allocations under the Transition Facility, at 1999 prices, were €200 million in 2004, €120 million in 2005 and €60 million in 2006. The objectives of the Facility were determined on a yearly basis for the ten NMSs and supported a variety of actions depending on the needs of the given country; thus, HRAW issues as a whole were not given priority. Nevertheless in the Czech Republic, in 2004 -2005 there was a funding opportunity on “*Strengthening the Role of Advocacy and Monitoring Civil Society Organizations*” with the objective of promoting implementation of the anti-corruption measures and anti-discrimination acquis. In total €2,380,110 was allocated to NGOs in two calls for proposals⁷¹. Also, in 2006 €746, 597 was allocated to support the implementation of the anti-discrimination legislation by monitoring and informing the general public and specific target groups through NGO activities.

With the EU Watchdog Fund and Transition Facility closing down, HRAW NGOs in the NMSs have lost an essential EU financial source. They certainly still have access to other European funding mechanisms, analyzed in the previous sections; however, on the whole there is **substantially less funding available for HRAW NGOs** from the 12 countries. This trend has also been verified by the findings of the online flash survey ECNL carried out in November 2009. In terms of challenges of access to EU funding opportunities, almost 60% of the respondents indicated that the main reason for not applying for EU funds was that the scope of the call was not relevant for HRAW NGOs. Calls for proposals for watchdogs activities concerning European areas of concerns at a national and European level are insufficient.

V.3.3. Specific Conditions of EU Funding for HRAW NGOs

Every year there are some calls for proposals that are relevant to HRAW NGOs launched by various DGs at the European Commission. However, the calls give opportunities only under certain conditions and the chances for success are rather limited. For instance, see the 2012 call for operating grants as issued by DG Justice (closed on January 31, 2012)⁷²:

⁷¹ Watchdog funding from EU and EEA/Norway Financial Mechanisms, presentation by Petra Francová, NROS, 2007. November, http://www.watchdog.eps.cz/files/meeting-with-donors/WD-EU_EEA.pdf

⁷² Call for Operating Grants 2012: http://ec.europa.eu/justice/newsroom/grants/111201_en.htm

Call for Proposals for Operating Grants in 2012 JUST/2012/OG:

The call was issued by the DG Justice in 4th Quarter of 2011. It embraces all five financial programmes, including Fundamental Rights and Citizenship (FRC) and DAPHNE III (DAP). The call is supposed to support organizations that contribute to implementation of one or several of the DG Justice programmes and must support their general and specific objectives through activities. The applicant organization must have representation or carry out activities in at least 10 EU countries. The organizations have to prove its earlier experience of working in the multiple EU countries. The Commission co-finances up to 80% of the total operating budget of the organization. Only one application per organization is allowed under the Call.

The Program objectives are rather general and include promotion of a European society based on fundamental rights, strengthening civil society, promoting better intercultural understanding, improving communication and networking between legal, judicial and administrative authorities. The more specific objectives are promote and examine the respect of fundamental rights in EU, to enhance NGO capacities in similar work and to create structures for interfaith and multicultural dialogue on the EU level. According to the conditions of the call, the indicative budget for operating grants in 2012 under the FRC program is €1,6 million and €3 million under DAPHNE III (DAP). The maximum grant allocation per organization is € 250, 000 and the minimum is €75, 000. For instance, the FRC programme can sponsor a minimum of 6 and a maximum of 21 projects with a wide range of applicants.

Respondents to ECNL Survey pointed out that if some of the calls were targeted exclusively for HRAW NGOs, it would not only enable existing HRAW NGOs to access such funding, but would also **encourage other NGOs to start performing watchdog functions**. Moreover, **specifically targeted funding opportunities would allow HRAW activities to be more continuous and sustainable** in the long term. Several respondents of the online survey emphasized the fact that human rights projects typically include activities, such as strategic litigation or managing a pro bono clearinghouse, which require long-term financial planning, rather than the reinvention of activities on a project basis. Currently, some of these activities are not eligible activities under EU funding mechanism, which hinders the efficient work of such NGOs.

V.3.4. Predictability of EU Funding

DGs identify specific grants and contracts to be awarded during the year in their **annual work programs (AWP)**. Generally published before the end of the first quarter of the given year the latest, AWP list all activities that will be put in place through publication of calls for tender and calls for proposals and they feature the most important parameters including the total amount foreseen for action and operating grants, financial provisions including the cost share ratio and indicative amount and duration of grants, the assessment and eligibility criteria and an indicative timeline.

For instance, the AWP of PROGRESS scheduled 9 calls for proposals and 28 calls for tenders for 2012. Most of the calls are published between March and July. The deadline for submitting applications under calls for proposals is generally around 8 weeks, at the same time deadlines are shorter for calls for tenders (around 7 weeks on an average).⁷³

The AWP provides indicative information on the provisional schedule and breakdown of amounts per type of activity of the given financial instrument for a certain year, but **no such detailed information is available on future actions**.

V.4. Multi-Annual Financial Framework 2014-2020

V.4.1. An Overview of Multi-Annual Financial Framework

⁷³ Annual Work Programme of Grants and Contracts for 2012 – Programme PROGRESS, <http://ec.europa.eu/social/BlobServlet?docId=7468&langId=en>

The Multi-Annual Financial Framework (MFF) is the basic inter-institutional EU agreement that covers the EU budget process and its distribution for the next budgeting period (i.e., incomes and expenses for the European Union for the years 2014-2020). It contains allocations within the EU budget, programme commitments, and the main principles based on which funds will be distributed. Together with the revision of the Financial Regulation (see Chapter below), the MFF is supposed to establish a simplified funding framework that will be applied as of January 1, 2014. The Commission presented its proposal for the new MFF in June 2011. It also developed a comprehensive set of 57 sector specific recommendations for each programme underlying the MFF 2014-2020. According to the Commission's Communication on A Budget for Europe 2020⁷⁴, the EU budget among others exists to "respond to persistent and emerging challenges that call for a common, pan-European approach (for example, in environment, climate change, humanitarian aid, demographic change and culture)". As part of the new MFF the **Rights and Citizenship Programme**⁷⁵ and **Europe for Citizens**⁷⁶ will represent major funding possibilities available for HRAW NGOs for working in the EU in the following years.

In creating the new MFF the Commission was guided by the following principles:

- Focus on delivering key policy priorities;
- Focus on EU added value⁷⁷;
- Focus on impact and results;
- Delivering mutual benefits across the European Union.

Drawing up the proposal of the new MFF the Commission carried out assessment of the existing financial instruments and programmes and engaged citizens and stakeholders through public consultations, e.g. DG Justice Public consultation on future funding activities in the area of Justice, Fundamental Rights and Equality.

Among the hallmarks of the upcoming financial programmes as proposed by the Commission is focus on results, increased use of conditionality, i.e. outcomes will be in the spotlight rather than inputs, and simplification of delivery.⁷⁸ However, it is still questionable how much of the proposed changes will favourably affect CSOs. As stated by EU Commissioner for financing programming and budget Janusz Lewandowski, "EU funds can play a key role as we strive towards sustainable economic growth by providing extra funds to our business, regional authorities and researchers. We wanted to make the access procedure to those funds less like a maze and more user-friendly."⁷⁹ It may be worthwhile to note that in this statement CSOs are not mentioned as stakeholders whose needs are to be considered.

The overall simplification of funding mechanisms is pronounced through **rationalisation of programmes and simplified implementation mechanisms and procedures**. In the Commission's proposal the number of EU financial programmes have been reduced by 22, which according to the Commission, will lead to a stronger focus on concentrated activities and strengthen synergies between programmes. The reduction of programmes has been achieved by combining different instruments under a single framework (i.e. developing common rules and management with specificities to the minimum for different programmes), mainstreaming priorities across different policy areas, creating synergies between programmes, and finally – more efficient administration.

74 COM (2011) 500 final.

75 COM (2011) 758 final.

76 COM (2011) 884 final.

77 EU Added Value is a value resulting from the EU intervention which is additional to what to the value that would have been otherwise if produced by a Member State. Generally, it can be described through a test of "whether spending at EU level means a better deal for citizens than spending at national level". For more information, see SEC (2011) 867 final.

78 COM (2012) 42 final

79 EC Press Release Easier Access to EU Funds: Commission shows member states the way:

<http://europa.eu/rapid/pressReleasesAction.do?reference=IP/12/106&format=HTML>

Apart from external actions, the following policy fiches relevant for HRAW NGOs have been proposed for next MFF:

Rights and Citizenship Programme

The Rights and Citizenship Programme with a budget of €387 million is intended to make people's rights and freedoms effective in practice by making them better known and more consistently applied in the EU.

The proposed Rights and Citizenship Programme emerged as the combination of the following programme predecessors:

- Fundamental Rights and Citizenship;
- Daphne III;
- Areas concerning diversity and anti-discrimination and gender equality under PROGRESS.

Taken together, these programs represented €470 million in the previous fiscal period (2007-2013). Therefore, the overall budget intended for these types of activities has been reduced by almost 20% (€83,000). At the same time, the types of activities to be supported will become broader:

The main objective of the Programme is to “contribute to the creation of an area, where the rights of persons, as enshrined in the Treaty on the Functioning of the European Union and in the Charter of Fundamental Rights of the European Union, are promoted and protected.”⁸⁰

Specific objectives include **enhancing exercise of rights deriving from the EU citizenship; promoting principles of non-discrimination, equality and rights of persons with disabilities and elderly; contributing to protection of personal data; enhancing respect of the rights of the child; and enforcing consumer legislation and freedom to conduct cross-border business in the internal market.**

Annual priorities for the Programme will be identified in the annual work programme by the Commission subject to the opinion of a Committee of Member States under the Advisory procedure. Although it may seem as though there will be less funding available for HRAW NGOs, in fact during the process of determining the priorities **there is a possibility to influence how the funding will be allocated and under what conditions for the various purposes and target groups**, thereby possibly ensuring greater access to NGOs than there has been under the current funding programmes.

Europe for Citizens Programme

The Programme builds on the existing Europe for Citizens Programme 2007-2013. It aims at promoting civic participation at the Union level and increasing awareness and understanding about the Union. The financial allocation for seven years is €229 million, which is a moderate increase from the current allocation of €215 million.

The new Programme will focus on the following two strands:

- Remembrance and European citizenship – promoting debate and activities on European integration;
- Democratic engagement and civic participation – developing citizens' understanding and capacity to participate in the Union policy making process and developing opportunities for solidarity, societal engagement and volunteering at Union level.

Preference will be given to projects with a high impact. All actions will be implemented on a transnational basis and have a distinct European dimension.

⁸⁰ COM (2011) 758 final.

The concrete objectives for funding will be suggested by the Commission through annual work plans to be developed by the responsible DG.

V.4.2. Policy Recommendations and Next Steps regarding MFF

The Member States (as members of the European Council) have the opportunity to influence the Multi-Annual Financial Framework between July 1, 2011 and June 30, 2012, the Parliament also has the opportunity to give its input during this time. The MFF should be adopted in its final form by the end of 2012. However, based on earlier experiences and expected challenges and uncertainties related to the economic and financial (euro) crisis, its adoption could be delayed until mid-2013.

The advocacy by HRAW NGOs and their representative officer can take place at the level of the Parliament, the Council, and later with the DGs that will develop specific annual work programmes after the MFF is adopted. Advocacy efforts can focus on the following:

- ✓ It is of key importance **to ring fence part of the mentioned funding programs for NGOs**. The national legal, fiscal and institutional context usually makes it difficult for NGOs to compete on a fair basis with public organizations and private companies; whereas, the contribution by NGOs may be the same or higher value to the citizens. Alternatively, or parallel, **funding for a certain type of activity** (i.e. the HRAW function) could be promoted, e.g. by earmarking a percentage of the total funding to this function.
- ✓ **Operating grants should stay available for NGOs**. Availability of this funding gives an option for NGOs to cover at least part of their organizational costs and helps to ensure sustainability of their effort. It becomes especially significant for NGOs in NMS where traditional donors that have supported the sector for several decades are gradually downsizing their programmes or close down altogether, e.g. CEE Trust.
- ✓ The underlying simplification of the budget is envisioned through focus on funding projects with greater EU value. During the consultations launched by DG Justice on future funding focus was also made on funding bigger projects in order to prevent dilution of funds. When working with the DG to advocate for favourable annual work programs, **it would be important to develop and put forward a consistent message that smaller, nationally focused projects can also serve as an important tool in achieving impact at the European level**, e.g. through fostering innovation and locally rooted and implemented solutions. The EU added value criteria should also be considered through the prism of issues on the national level that need to be addressed in order to achieve common EU objectives.

The above request have been consistently voiced by ECNL in their interaction with the European decision makers and stakeholders, as well as were included in its submission to the DG Justice consultation on the future funding priorities under Fundamental Rights Programme.

A number of public consultations were carried out by the Commission preceding the MFF review, e.g. DG Justice Public consultation on future funding activities in the area of Justice, Fundamental Rights and Equality, through which NGOs and other interested stakeholders could submit their input and recommendations. **It is essential to follow and stay involved in the upcoming hearings and consultations, as well as initiate meetings relating to funding for HRAW NGOs specific issues and general funding issues to be able to communicate with the Commission on the sector's priorities and set the HRAW NGO agenda.**

Unfortunately, the results of the consultation by DG Justice on future funding priorities as carried out in summer 2011 were not made publicly available, only quoted in the proposal for the Fundamental Rights Programme review. **NGOs must stay alert of the developments in regards to EU funding for their**

areas of involvement and request transparent and clear procedures from the Commission on sharing information and ensuring good standards of participatory approach when carrying out consultations.

V.5. Procedures for Obtaining EU Funding

V.5.1. An Overview of Financial Regulation and Implementing Rules

The funding distributed by the European Commission is subject to **a set of rules that are outlined in the *Financial Regulation (FR)*⁸¹ and *Implementing Rules (IR)*⁸²**. The fundamental principles of funding procedures by the EU originate in the FR with further details provided by the IR. In order to assist their beneficiaries with application of the financial scheme some Directorate Generals developed ***practical guides*** on financial procedures. For example, the Practical Guide and General Annexes⁸³ (including a standard contract) for EC External Actions is available on EuropeAid's page for the general public.

The European commission reviews and amends the Financial Regulation and Implementing Rules on a triennial basis. The second triennial review process is currently ongoing and was preceded by an open public consultation on two major topics identified by the Commission: *grants* and *the Commission's handling of financial files*. The contributors were invited to submit their opinions on eleven questions suggested by the Commission as well as to reflect on other issues they faced in implementation of EU projects. As the result, the total of 235 contributions were filed by individuals, NGOs (107 contributions) and local authorities. The Commission prepared a summary report of **main conclusions**⁸⁴ based on the input provided. Among the key issues raised by the contributors and emphasized by the Commission in the summary of the Consultation feedbacks were the need for *more flexibility in co-financing requirement* depending on the nature of project, including *consideration of the in-kind contributions*, *more flexibility in the interpretation of the non-profit rule*, the need to improve the *application procedures* and dissatisfaction with *the pre-financing scheme*.

The Consultation served as a basis for preparing a draft proposal on Regulation of the European Parliament and the Council on the Financial Regulation applicable to the general budget of the European Union⁸⁵ COM (2010)260. The draft proposal was discussed at a joint hearing by EP Committee on Budgetary control and the Committee on Budgets that took place in Brussels on June 1, 2010. The suggestions for changing the Regulation can be accessed at the Parliament's webpage⁸⁶.

After the process of negotiation the European Parliament voted on the amendments to the FR on October 26, 2011, which will be further reviewed in a trilogue composed by representatives of the EU Presidency, DG Budget, rapporteurs and some EP members. The trilogue has been extended into February 2012. Consultations will be held with the EP and Council in order to avoid a veto for the FR.

⁸¹ Financial Regulation: http://ec.europa.eu/budget/library/documents/implement_control/fin_rules/syn_pub_rf_modex_en.pdf

⁸² Implementing Rules: http://ec.europa.eu/budget/library/documents/implement_control/fin_rules/syn_pub_rf_modex_en.pdf

⁸³ PRAG: http://ec.europa.eu/europeaid/work/procedures/implementation/practical_guide/index_en.htm

⁸⁴ Consultation Report: http://ec.europa.eu/budget/library/consultations/fin_reg2009/Final_Report_FinReg_review_en.pdf

⁸⁵ COM (2010)260: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2010:0260:FIN:EN:PDF>

⁸⁶ Proposal for a Regulation of the European Parliament and of the Council on the Financial Regulation applicable to the general budget of the European Union COM (2010) 260:

http://www.europarl.europa.eu/meetdocs/2009_2014/documents/com/com_com%282010%290260_/com_com%282010%290260_en.pdf

And Accompanying document to the Proposal for a Regulation of the European Parliament and of the Council on the Financial Regulation applicable to the general budget of the European Union COM (2010) 260 :

http://www.europarl.europa.eu/meetdocs/2009_2014/documents/cont/dv/com_staffworkingdocument_/com_staffworkingdocument_en.pdf

As soon as a stable version of FR is agreed upon, the Commission will start working on preparing new Implementing Rules. According to some forecasts, the new FR and IR will be adopted by September 2012.

V.5.2. Main Challenges of the EU Financial Conditions

EU funding procedures are numerous and rather complex. The topic of sustainability of the EU funding was raised already in 2005 in the paper prepared by Open Society Institute-Brussels, Concord, the Platform of European Social NGOs, SOLIDAR, and the European Women's Lobby under the title **Striking a Balance: Efficiency, Effectiveness and Accountability**⁸⁷. Some of the issues mentioned in the paper are still current and impede sustainability of NGOs until today.

The Public Consultation initiated by the Commission was a good opportunity for NGOs to bring up the issues in terms of the EU funding and better position their advocacy activities within the framework of EU policy-making. In preparing its submission to the public consultation on Financial Regulation, through in-person inquiries and an online flash survey, ECNL reached out to approximately **50 NGOs** from several member states and beyond the EU. An online flash survey was carried out in November 2009 and resulted in a feedback from thirty human rights and accountability watchdog organizations from the New Member States (NMS). Additionally, ECNL conducted personal interviews with close to twenty NGOs from among its Europe-wide network. While almost 67% of the respondents were not aware of the Consultation, 53% of the respondents said that they would like to participate in the Consultation on review of the Financial Regulation.

Based on the results of the survey, ECNL developed a **policy paper**⁸⁸ in response to the EU Consultation on Financial Regulation review, where it included priority issues with the EU funding that were identified in the submitted questionnaires. In the submission paper ECNL in detail describes the problems, giving concrete examples and provides policy options and recommendations based on other donors' policies and good practices. Among the main issues included in the paper were *indirect rate allocation for grants; requirements for co-financing and ineligibility of in-kind contributions; exchange rate losses when applying official EU exchange rate; information about grant opportunities and paperwork for applicants*. All these provisions have a direct impact on the beneficiary's financial sustainability and need to be addressed in order to guarantee a sustainable financial environment for NGOs. The paper was submitted to the European Commission in December 2009. In addition, ECNL contributed to other organizations' submissions that voiced similar concerns on implementing EU funded projects, e.g. EUCLID Network, Civil society working group on EU financial support at the European Active Citizenship Group under the auspices of DG Education and Culture and CONCORD platform.

Below we review the financing conditions set by the FR and IR that have considerable impact on NGOs' sustainability, as identified by the survey respondents.

V.5.3. Financing Conditions Preventing NGOs from Applying for EU Funding

Generally, the challenges NGOs face with the EU financial rules force some NGOs to question whether they can accept large-scale EU funding and may result in a conscious decision by the NGOs not to apply for the EU funded grants. Financial conditions of the grant award were mentioned as one of the reasons for the decision not to apply for EU funding by almost 31% NGO respondents (see Figure IV.4).

⁸⁷ Striking a Balance (2005): http://www.soros.org/initiatives/brussels/articles_publications/publications/financial_20050430

⁸⁸ ECNL's submission to the EU Consultation on Financial Regulation review: http://www.ecnl.org/dindocuments/312_ECNL%20Response%20to%20Public%20Consultation%20FR%20Review_web.pdf

Case study: ECNL

The administrative expenses of ECNL in 2007-2008 equaled on average 20% of its operating budget. During this time, ECNL implemented an EU project financed through EIDHR, and since it could only allocate 7% of the related administrative costs to the project, it suffered a 13 cent loss for every one euro spent on (or 13% of the total cost of) the project. ECNL's board therefore decided that the organization should not apply for EU action grants until such time as the full cost of projects can be recovered, despite the fact that ECNL's contribution to the objectives of the EIDHR and other programs in several regions has been acknowledged by the EC.

Looking into the specific conditions that preempt organizations from applying for EU funding, the 7% limitation on indirect costs was the preventive factor for almost 39% of the respondents and co-funding requirement was a hindrance for 46% of the respondents. These provisions are reviewed in detail below. The administrative burden of implementing an EU funded project resulted in the decision not to apply by almost half of the respondents. The restrictive financial and administrative provisions of the calls pose significant burden for the potential applicants and may drive away capable organizations from engaging with the EC funding.

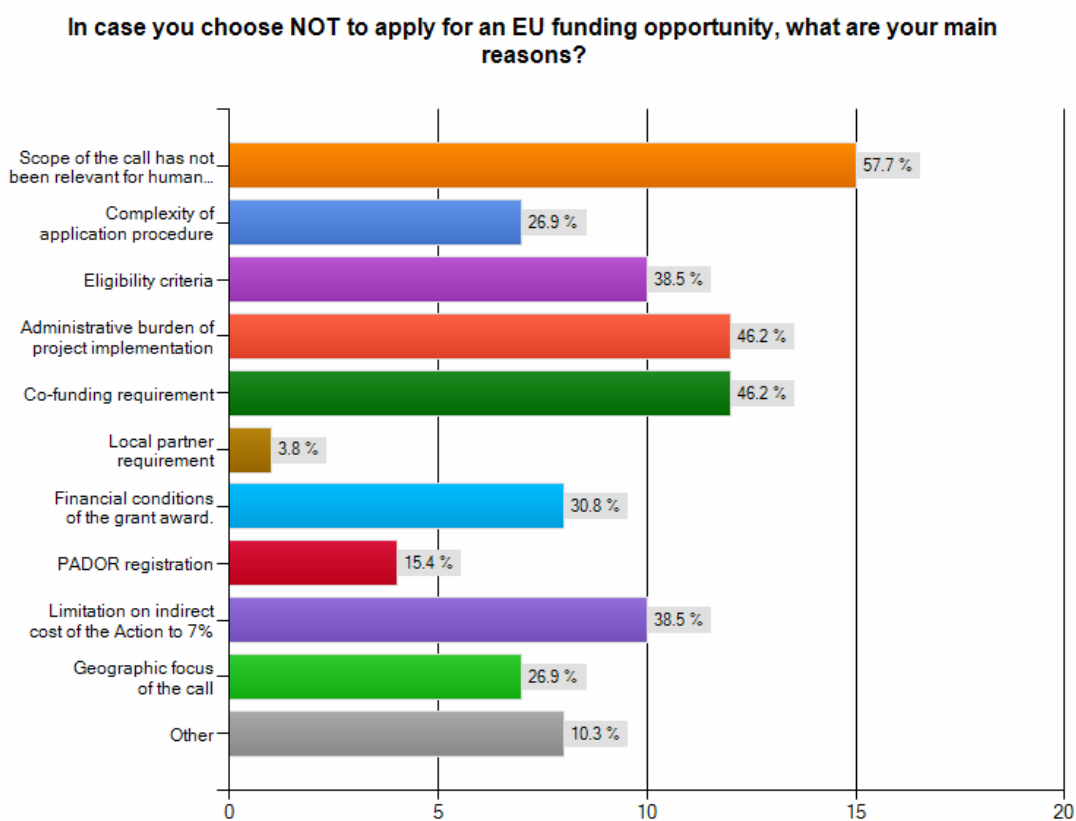


Figure V.4: Financing Conditions preempting access to EU Funds

V.5.4. Challenges of Managing EU Funds

Those organizations that do gain access to the EU funding identified the following conditions as the major challenges and somewhat a challenge (see Figure IV.5 below): **7% limitation on indirect costs, post-financing payment scheme, level of required co-funding, ineligibility of in kind co-funding,**

difference between the official EU exchange rate and the actual exchange rate, pre-financing guarantee, i.e. bank guarantee, administrative burden and some others.

The detailed account of the issues having most impact on financial sustainability can be found in the ECNL's Policy Paper in response to the Public Consultation on Review of the Financial Regulation, below is a review of major points.

Indirect costs

The current version of the EU financial rules allow grant beneficiaries to request up to 7% of the total direct costs of the project as the indirect costs (IR Art.181). The limit can be exceeded by "a reasoned decision of the Commission". However, there is no further explanation provided on how to apply such derogation and the provision is barely applied in practice (with the exception of DG Research that has a more elaborated policy on indirect allocations that is, however, only applied to research institutions).

The limitation of indirect expenses to 7% poses a serious challenge to transparency and accountability of reporting to the Commission and compromises organizational effectiveness of NGOs. In most cases the 7% overhead allocation is not sufficient for covering all indirect costs of running a project. Almost 90% of all respondents who had experience with EU funding mentioned the 7% indirect cap among the main challenges of the project. At the same time each respondent mentioned the administrative burden of implementing an EU project among the major challenges, which means that considerable administrative resources have to be involved to successfully implement and report on the project to the Commission.

As the result of advocacy with the EU decision makers and other stakeholders, e.g. Concord, EUCLID a more favorable allocation for indirect costs is proposed in the new draft FR. The draft FR Article 117 (a) proposes that the overhead costs are recognized as eligible costs at the level "of 10% of the total direct eligible cost of the action where this does not exceed EUR 250 000 and 8% thereafter on a flat rate basis. This percentage may be increased in particular for coordinating legal entities in accordance with the delegated regulations." Although this is still far from what would be ideal, it is definitely a step forward towards actual indirect cost recovery that would correspond to good donor practices.

Non-profit Rule

Organizations that pursue actions of general European interest are eligible for applying to calls for operating grants that can cover their core expenses. All grants are subject to the so-called non-profit rule that concerns any surplus of receipts over the costs incurred by the beneficiary when the request is made for final payment (IR 165 (2)) or a surplus balance on the operating budget of the beneficiary (IR 165 (4)). In case of non-profit organizations this provision creates an unintended hurdle, as any excess funds accumulated by the organization through its activities, i.e. additional core funding from another donor or economic activities, will result in the deduction of the amount of surplus from the EU operating grant. This is a rather unsustainable provision that pre-empts organizations from accessing other core funding, undermines the possibility for maintaining reserves and negatively affects NGOs' financial sustainability. As many HRAW NGOs receive core funding from OSI and other donors and follow good practices of a balanced budget, where incomes slightly exceed expenses, this provision essentially excludes them from receiving core grants from the EU.

The issue is only partially addressed in the draft FR by allowing income to recipients of action grants to ensure sustainability of the action after the period of Union financing provided for in the grant decision or agreement (draft FR 117 (4)). Such interpretation is problematic since it is rather vague and does not guarantee that derogation will be included in the grant agreement. Operating grants stay subject to the non-profit rule according to the draft FR proposed by the Commission. Simultaneously, derogation from the non-profit rule is included for political parties allowing them to roll over the unspent surplus up to 25 % of the total income for that year to the following budget year with the condition of spending it down in the first quarter (present FR 109). Considering that NGOs are non-profit organizations in their essence,

it is absolutely necessary to revisit this issue with the view of excluding NGO recipients of operating grants from the non-profit rule.

Level of Co-financing

According to FR and IR the application of the **co-financing rule** is mandatory in the distribution of EU grants. Article 109 of the current FR provides that all grants must involve additional funding from non-Community sources. Co-financing means that part of the action (in case of grants) or part of the running costs of an entity (in case of operational grants) must be born by the beneficiary of the grant and come from non-Community contributions. The rationale behind applying the co-financing principle is not clearly communicated nor defined by the Commission, which may lead to different approaches in the application of the principle.

The level of co-financing varies depending on the conditions of the contract and whether the lead implementing organization is based in the EU member states or outside (standard calls for grant proposals usually provide for 60%-80% EC contribution of the total amount of the grant for EU based organizations, while in case of external actions up to 95% EC contribution may be provided for local organizations).

The co-financing requirement is especially problematic for NGOs in NMS, since there are fewer additional funding resources available to attract co-financing. This particular provision was mentioned as a challenge by 90.5% of the ECNL flash survey respondents. In addition, certain actions may require full funding by one donor, e.g. relief efforts or innovative areas that do not bring in sufficient donor support.

While the FR and IR recognize that certain fields of action may require full funding (FR Art. 169, Point 41 and IR Art. 253), the list of exceptions does not include all areas in which derogation may be needed, including some newly emerging issues such as counter-terrorism efforts where funding pool may not be available due to the novelty of the topic. The final decision is left to the authorising officer to determine the grounds for full-funding, without further criteria or guidance, which may mean that the rule for full funding could be applied subjectively and not in a consistent manner. It is important to prepare more specific guidance and criteria on the application of this derogation and greater flexibility in applying co-financing requirements to national organizations that do not have easy access to additional funding from other sources.

In-kind contributions

In-kind contributions as part of co-financing are allowed by the FR and IR, but are rarely applied in practice. This fact was reported as problematic by all NGO respondents. It also means that the EC is not taking full advantage of the resources that could be supporting its actions from a range of stakeholders. The absence of specific guidelines on admitting in-kind contributions as co-financing forces some DGs to further limit the rule. For example, PRAG, Guidelines to Applicants 2.1.4, states that "Given the difficult evaluation of the contributions in kind if accepted as co-financing, the Contracting Authority should limit to accept the contributions in kind as co-financing to exceptional cases, subject to possible evaluation of such contributions."

In reality beneficiaries of EU grants, especially NGOs, rely on different types of resources to implement their projects, some of which include volunteers' work or contributions in-kind from other donors (e.g., computers to conduct research, free access to venues to organize events). Recognizing such contributions would be in line with the budgetary principle of efficiency which is concerned with the best relationship between resources employed and results achieved. While it is a challenging task of giving monetary value to volunteers' work, several efforts are being made to create such methods of valuation

that can be explored by the EC, e.g. *the Exposure Draft ILO Manual on the Measurement of Volunteer Work*⁸⁹.

The new text of FR Article 117 (b) on in-kind contributions states that “the authorising officer responsible may accept in-kind contributions as co-financing, if considered necessary or appropriate. Where co-financing in-kind is offered in support of very low value grants and authorising officer intends to refuse this, he shall justify why it is not necessary or inappropriate.” Further instructions will be needed in order to make this provision implementable and set the financial value for the in-kind contributions.

The combined impact of these barriers poses significant burdens on beneficiaries that limit their ability to successfully carry out future actions. Challenges associated with each issue mentioned in this report may result in a financial loss and weaken the capacity and viability of NGOs; taken together, they may strongly deter NGOs from engaging with the EC to carry out highly needed actions. This in turn may compromise the realization of the objectives of funding programs of the EC. Even more significantly, the issues raised compromise the purposes of the Financial Regulation (FR) and Implementing Rules (IR), which are to ensure that Community funds are spent transparently, efficiently and effectively for the purpose intended by the budgetary and legislative authority.

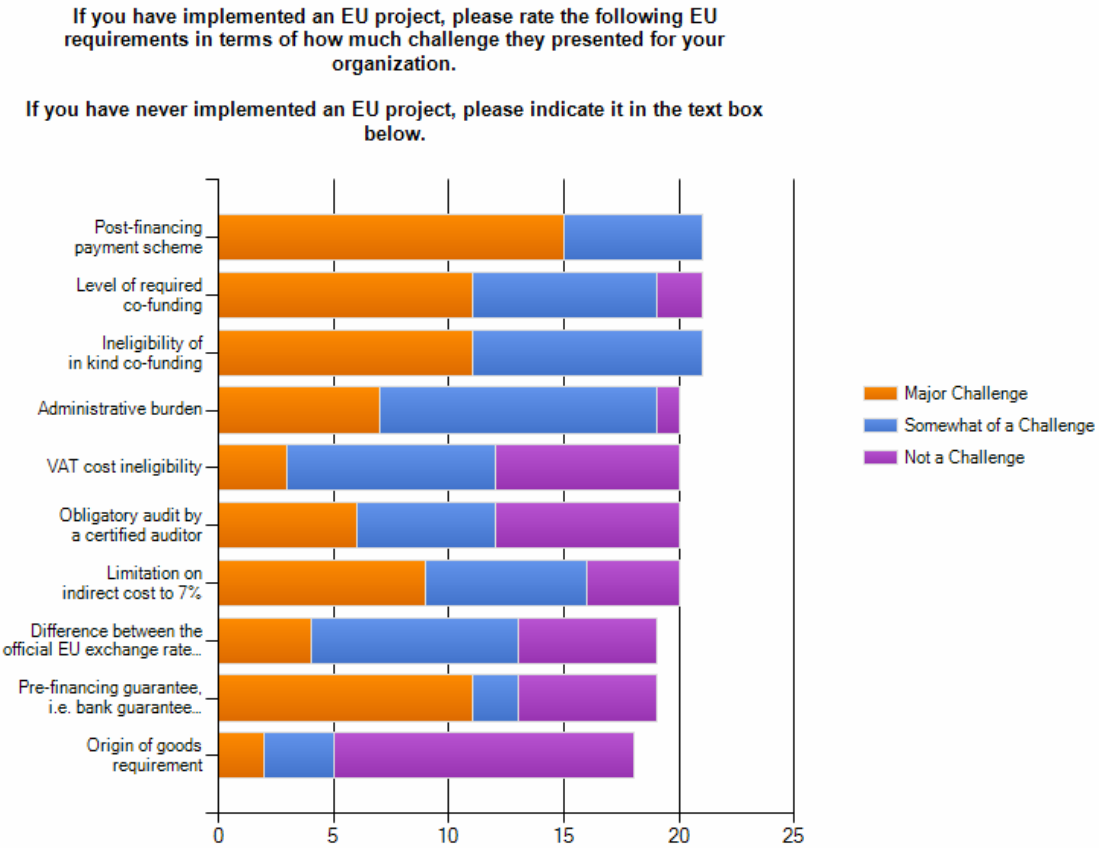


Figure V.5: Challenges of applying EU financing rules

V.5.5. Policy Recommendations and Next Steps for Financial Procedures

⁸⁹ ILO Exposure Draft Manual on Measurement of Volunteer Work: http://www.ilo.org/wcmsp5/groups/public/---dgreports/---stat/documents/meetingdocument/wcms_100574.pdf

Due to the 3 year cycles, the revision of the FR starts in the moment the current draft is adopted, and the new version will be adopted at the start of the new MFF (2014), therefore this work also requires ongoing efforts. **It will be important to establish the HRAW NGOs' own agenda for the review of the financial procedures and their implementation** as there are several aspects (related especially to operating expenses and co-financing) that are not as well represented by other NGO networks. Importantly, even when the FR is adopted it is up to the DG's how they interpret the provisions, and the relevant DG's need to be lobbied to interpret them favorably to NGOs. The requests for improvements will include:

- ✓ **To increase the flat rate of indirect allocation** to a level that is closer to an estimated average indirect rate of an NGO; and to consider the development and introduction of EC's own method for calculating and allocating indirect costs for NGOs in order to allow for actual indirect cost reimbursement;
- ✓ To exclude **NGO operating grants** from the scope of non-profit rule;
- ✓ To introduce **transparent and specific guidelines** and criteria for implementation of the co-financing principle and its derogations;
- ✓ To take the necessary measures to allow **greater inclusion of in-kind contributions as a part of co-financing**. Appropriate guidance and criteria on recording and reporting in-kind contributions should be developed with the help of a multi-stakeholder working group, to help ensure that rules respond to the good practice and consider the concerns related to proper accounting and reporting.

V.6. Conclusions

The EU currently funds civil society organizations' activities in a number of areas that promote pan-European objectives, including human rights objectives. However, there are several factors that **hinder the access of human rights and accountability watchdog (HRAW) NGOs from the New Member States (NMS) to take advantage of EU funding**.

(1) First, there is relatively little funding available for human rights NGOs working within the EU as opposed for those working outside the borders of the Union to advocate for human rights. At the moment, **there is a window of opportunity in relation to the review of the Multi-Annual Financial Framework (MFF)** when NGOs can voice their concerns and impact upon their future funding.

(2) Second, there is an existing bias toward funding NGOs from the EU 15 over the EU 12. It is notable that NGOs from the NMS still receive a considerably lower amount of funding than their peers from the "old" EU, especially in institutional funds (so-called "operational grants"). However, the HRAW NGOs – especially those from the NMS – have not organized to lobby for increased funding opportunities.

(3) Third, the funding procedures and rules for managing the projects are so burdensome that many NGOs do not undertake to apply for such funding. These rules affect all NGOs but it seems that NGOs from the NMS, and especially HRAW NGOs from the NMS, are the most sensitive to the administrative and management burdens, due to the lower level of organizational capacity they generally possess. It is important to establish the **HRAW NGOs' own agenda for the review of the financial procedures** as there are several aspects (related especially to the rate of indirect expenses and matching funds) that are not as well represented by other NGO networks.

To summarize, there is **room for advocacy work by a Europe-wide network that would represent the interests of the cause and sustainability of HRAW NGOs** vis-a-vis European institutions, both in the current review period and in the longer term. At the same time, cooperation with other European CSO networks that work to improve funding regulations is of key importance.

Advocacy activities should involve **cooperation with a range of stakeholders**, primarily the DG Justice, DG Communication and DG Budget; relevant Committees of the European Parliament as well as key MEPs; Committees of the European Council; the Agency for Fundamental Rights (FRA); EU Presidency countries in line, i.e. Denmark, Cyprus, Ireland, Lithuania; European CSO networks such as Concord and EUCLID; and direct advocacy and lobbying National Governments.

VI. Learning Points and Recommendations

1. HRAW NGOs in the NMS need to establish a form of cooperation targeted at advocacy and lobbying at the EU level.

Experience from the EU 15 clearly suggests that the only effective way to influence EU policy-making and decision-making processes for civil society actors is through a pan-European representation of their interests that **is seen legitimate by the EU institutions and ensures an ongoing presence in the policy development processes**. HRAW NGOs from the NMS do not currently have such representation. If they decide that EU level advocacy related to funding policies would be beneficial for them, they will have little choice as to whether establish such cooperation. This could initially be informal, however a presence in Brussels is indispensable for effective advocacy work.

The Project Team did not identify a currently existing strong European NGO network focusing on HRAW NGOs as such. There exist a number of Human Rights focused European networks, most prominently the European Association for the Defense of Human Rights (AEDH), which seems to be the key umbrella of HR organization; and also (a) topical networks, e.g. the European Network Against Racism (ENAR); and (b) informal networks, such as the Human Rights & Democracy Network (HRDN). One caveat is that none of these include issues focusing on good governance and accountability (i.e. corruption, budget reforms). In addition, while active in the policy development of the various HR fields, they do not seem to be involved in the reforms related to funding of HR NGOs in the EU. Therefore, the project recommends the **formation of a new network**.

As a result of discussions with HRAW NGOs and other stakeholders it has also been crystallized that there should be a **broader mission for the Network than “just” the sustainability of its members**. Rather – through the increased sustainability of its members - it should aim to contribute to the fulfillment of basic values that serve a very timely agenda in Europe: good governance and accountability. This agenda is timely as the EU is suffering under the crisis of accountability and institutions’ leadership in the majority of member states, both financially and in governance. This threatens the functioning of societies and can lead to dangerous radicalization. Therefore, the Project recommends that the newly forming network develops a brand that reflects a broader vision related to human rights and governance; one which unites the approaches of HRAW NGOs from different countries and areas of EU civil society, and is well communicable to a range of different stakeholders.

The current proposal for such Network is that of **“Governance and Accountability” or G&A**, and its vision is phrased as follows:

“Good governance and human rights principles are fully implemented in the everyday practice of institutions across all levels of the European Union. Financially sustainable and accountable watchdogs, advocacy groups and think tanks play a key role in achieving and maintaining this vision.”

2. **Advocacy with the EU could be oriented towards increasing the amount of funding available to NMS NGOs and towards improving the rules of financing NGOs.**

In terms of the advocacy work such Network may undertake, there are two key strategic directions:

- **Increasing the amount of funding available to HRAW NGOs from the NMS.** In the long term this could mean increasing the amount of funding available for human rights and good governance, a legitimate and needed demand. However, in the short term, because the EU budget allocations for this type of work are not set to increase, it would mean lobbying to improve the ratio of NMS NGOs receiving existing funding, which can be achieved through various strategies (e.g. awareness raising, special topics, targeted funding, increased marketing and assistance to NGOs etc.). It would be important to establish a realistic level of need of EU funding for HRAW NGOs in the region and establish the goal of meeting that need through the advocacy and lobbying efforts.
- **Improving the rules which govern distribution, management and reporting of EU funding.** This is related to the ongoing review of the documents regulating EU financial procedures, i.e. the Financial Regulation and its Implementing Rules. Improvements in this regard are possible and already happening; but change will be gradual and investment over a longer time is needed to push through all the demands. In addition, there is currently openness within the Commission towards increased flexibility in implementing the rules, which can be another strand in the advocacy strategy.

The concrete contents of recommendations under the above two strategies are provided in Chapter V (sections V.4.2. and V.5.5.), and in Annex V: Advocacy paper.

3. **Advocacy with the EU is a long-term investment. Besides short term improvements, it should be led by a compelling vision.**

What can be expected from an increased focus on EU advocacy?

It is important to point out that while there is a realistic chance to improve the conditions for funding of HRAW NGOs, the organizing of a Network and the establishment of an EU officer post is not likely to lead to a fundamental change in the policy towards HRAW NGOs on part of the EU in the short term (1-2 years). The goal here would be to make **existing funding more accessible** to those NGOs interested in obtaining EU funds. The opportunities elaborated in Chapter V (Multi-annual Financing Framework, Financial Regulations) and the strategies above include the most outstanding issues for the next two years. Effective advocacy related to those could lead to improving conditions, such as a specific programme call for NGOs only or reduced period of decision-making on the proposals. However, the “return on investment” for the funders of such a position should be measured not (only) by the increase in the amount of funding available for HRAW NGOs.

Establishing an ongoing presence in Brussels representing the HRAW NGO community should **serve the longer-term purpose of positioning these NGOs as powerful players in the European scene**. Potential asks and opportunities in advocacy and lobbying emerge continuously in Brussels, as the processes are cyclical – the moment a policy is adopted, its implementation, evaluation and revision starts. Therefore, with a strengthened presence, more ambitious goals are also feasible in the longer term – in policy first (i.e. a better understanding of the role of HRAW NGOs in maintaining core European values) and then in funding (e.g. to increase the amount of funding available or to designate a separate fund for HRAW purposes).

A better understanding of the role of HRAW NGOs will come about when seeing the impact of the network. If, as proposed, the Network will be serving a larger goal than the interest of its members, then the **key change to be expected is the achievement of that larger goal**: full implementation of human

rights and accountability and transparency at all levels of the Union. Based on the experience of other EU-wide networks, if the mission is seen as relevant to the EU agenda, and there is enough legitimacy through a mandate from a pan-European membership, there is a good chance for the network to be supported by the EU and for its agenda to be considered in the European processes.

The funding of such position for two years should therefore be seen as an investment in a longer term purpose rather than only as spending on a tool to achieve short term goals. This purpose is no smaller than the vision laid out by the newly emerging Network (see Annex V): **a well-governed and accountable Europe with strengthened and sustainable civil society organizations guarding the rights of its citizens.**

4. The EU is not a panacea. There is a critical need to – still – invest in boosting private philanthropy in support of human rights.

We are leaving the most important conclusion to the end: EU funding is not going to be a panacea. It would be an illusion to believe that the EU will ever provide funding that is enough, and accessible and flexible enough to serve the ongoing needs of HRAW NGOs in all the new member states. And even if it were, there can be principle reasons not to fully rely on it as a funding source. These reasons include first of all, that ultimately, **human rights in Europe need to be upheld by the society as such rather than a few organizations.** If this “ideal” state cannot eventually be reached in the new member states that will be a failure of the societies of these countries, and thus, democratic development of the countries themselves. Therefore if we maintain the premise that the NMS are still developing into full-fledged European democracies, it will be of critical importance to promote and encourage to the extent possible the **development of domestic private philanthropy** that will cater for the needs of HRAW NGOs in the long term.

This effort will need to be led by the HRAW NGOs themselves. The initiatives can take several routes:

- Lobbying with national governments to institute policy and legislative changes that lead to increased philanthropy;
- Creating innovative mechanisms to generate private support from the corporate sector (e.g., pooling funds through an intermediary);
- Boosting the capacity of NGOs to mobilize private philanthropic resources (companies, foundations, individuals) and sources of income generation.

A European network of the HRAW NGOs can serve as **a catalyst to inspire, facilitate and assist** these activities. In the initial year of forming the network, this Project already witnessed the impact of sharing experiences and information on private resources generation across the region as participants were inspired to instigate changes in their organizations.

In fact, the PAG members and other NGOs at the regional meetings agreed that this Network would help ensure that **HRAW NGOs take up the challenge of their own sustainability as proactive and responsible actors** rather than waiting for a donor or the EU to take care of them. This was seen as a significant step that is needed to overcome the usual attitudes of these organizations which often questions the use of reaching out towards individual donors.

Based on the experience of Western Europe, private support from those within society who value human rights and independent thought (whether through foundations or individual gifts or other means) is the funding source that not only fully meets the needs of HRAW NGOs but also provides them with the **legitimacy and credibility** to stand up against their governments or even the general public in defense of the most valuable component of European identity.

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VII. Annexes

The Study Report includes the following Annexes:

Annex I: Key Human Rights Issues in the NMS

Annex II: Examples of xenophobic campaigns

Annex III: HRAW NGOs Can Make a Difference – Examples from CEE countries

Annex IV: Country Information

Annex V: Advocacy Paper

Annex VI: Potential Advocacy Tools