



EUROPEAN CENTER FOR NOT-FOR-PROFIT LAW

PUBLIC BENEFIT REPORT FOR THE YEAR 2011

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Narrative report of ECNL's public benefit activity

Summary of activities

In 2011 ECNL continued to work for an enabling legal environment for civil society in Europe and beyond, through i) technical assistance on the legal and fiscal framework; ii) technical assistance in developing policies affecting civil society; iii) development of an analytical base for reform through research; iv) capacity development of local stakeholders; v) providing expertise and networking opportunities.

In the past year ECNL was particularly active in the Western Balkan countries, Moldova and Hungary. In Macedonia, ECNL was a key expert and the main lead to the team that prepared the draft of the 2012-2014 Strategy for Cooperation of the Government with the Civil Sector and the accompanying Action Plan. In Moldova, ECNL continued to strengthen the legal and fiscal framework for CSOs through several initiatives, including primarily the regulations and ongoing reform of the PBO Certification Commission, the implementation of the Law on Volunteering and CSO accounting. ECNL actively followed the ongoing legal reform initiatives in Hungary, and was actively engaged in the process not least because it has a direct impact on its own existence and operation.

In 2011 ECNL particularly focused on and researched the topics of public funding, CSO-government cooperation, public participation and public benefit status. As a relatively new area in its work, ECNL has engaged more in the global processes on aid effectiveness (Busan) and EU development policy; this is important because of our mandate to influence EU towards a more enabling environment for CSOs and it also provides a good basis for future activities in sharing CEE experience in other parts of the world.

ECNL organized several major events throughout the year: the regional conference on State Financing for CSOs in Chisinau; the regional workshop on Effective Government-CSO Cooperation organized in the course of the EU Presidency Project of HAND; and ECNL was co-organizer (with ICNL) of the Global Forum for Civil Society Law, which convened over 200 global leaders in Stockholm, Sweden in August 2011.

Institutionally, 2011 has been successful for ECNL but due to the lack of capacity and funding, little investment could be made into defining future strategic directions and securing resources for the coming years. This is a central concern to be addressed in 2012, alongside the transition in leadership of the organization.

GLOBAL ENGAGEMENTS

Global Forum on Civil Society Law

From August 21 - 23, 2011, over 200 government officials, CSO leaders, donors and international agencies from 83 countries convened in Stockholm, Sweden to advance civil society law. The event was convened by ICNL and was co-organized with ECNL.



Welcome remarks were delivered via video messaging by two Nobel Peace Prize Laureates, Archbishop Emeritus Desmond Tutu and Daw Aung San Suu Kyi, as well as US Secretary of State Hillary Rodham Clinton. Keynote remarks were delivered by Swedish Minister of International Development Cooperation, Gunilla Carlsson. In addition, the UN Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association Maina Kiai held a global consultation with many of the 200 Forum delegates on the priority issues that should be addressed in his mandate.

Participants at the Forum explored a diverse range of civil society issues. Illustrative topics included information and communication technology and its connection to freedoms of assembly, association, and expression; the legal framework for philanthropy; strategies to engage governments and legislatures on civil society law reform; counter-terrorism and civil society law; and aid effectiveness.

Fourth High Level Forum on Aid Effectiveness

ICNL/ECNL attended the Fourth High Level Forum on Aid Effectiveness (HLF-4), and the preceding Civil Society Forum in Busan, Korea; as well as the Global Assembly of the Open Forum on CSO Development Effectiveness in Cambodia earlier in the year. The Busan process is central in defining the aid agenda globally and across all development actors. Due to the successful advocacy of CSOs (including ICNL) and some progressive donor countries (incl. US and Sweden), the issue of enabling environment for civil society has been taken up in this global agenda. ICNL/ECNL therefore took part in these events as an important actor - e.g. ECNL led a strategy workshop on enabling environment together with Civicus, Oxfam and Open Forum, including an interview with UN Special Rapporteur on the Rights to Freedom of Peaceful Assembly and Association. In addition, ECNL continued to represent ICNL and ECNL in discussions related to the post-Busan processes.

NGO Law Monitor

In 2011 ECNL continued monitoring the news and global developments in the field of freedom of association, contributed to and assisted with maintaining the online ICNL NGO Law Monitor: <http://www.icnl.org/research/monitor/index.html> The Monitor provides up-to-date information on legal issues affecting not-for-profit, non-governmental organizations around the world. Currently the Monitor includes information on over 40 countries and regional organizations.

PARTICIPATION IN EUROPEAN LEVEL INITIATIVES

Contribution to EU policies

On behalf of HAND (the Hungarian Association of NGOs in Development) ECNL represented the Hungarian Platform in the regular meetings of CONCORD's group of Funding for Development and Relief (FDR) and Financial Regulation Subgroup (FRSG). Through representation in these groups ECNL stays abreast of the policy developments in terms of CSO funding by the EU and can contribute to their improvement. ECNL also co-led the CSO preparatory event of the Structured Dialogue Final Conference held in Budapest under the EU Presidency.

ECNL also contributes to shaping EU policies by taking part in public consultations that affect CSOs as launched by the European Commission. For example, as part of the larger review of the EU financial framework, in May 2011 DG Justice opened a consultation on future funding of the activities in the area of Justice, Fundamental Rights and Equality, to which, based on input from the CSOs, ECNL prepared a written submission that focused on the importance of retaining operational grants (as opposed to only project grants), and on arguing that the "added European value" dimension should not mean supporting only exchange-type projects but also projects that tackle national level issues of one member state.

Human Rights and Accountability Watchdog NGOs

2011 was the final year of the project *Upholding Sustainability of Voices for Human Rights*, aimed at promoting *sustainability of human rights, advocacy and watchdog (HRAW) CSOs from the new EU member states*, supported by Open Society Institute and Trust for Civil Society in Central and Eastern Europe. From the research and meetings in the project, the idea for establishing an informal network of HRAW CSOs emerged and was discussed. Such network would aim to carry out advocacy activities with the EU, i.e. representing HRAW CSO interests on the EU level, as well as promote sustainable financing and local philanthropy on the country-level. ECNL assisted the Polish partner NGO to develop a follow-up proposal to OSI, CEE Trust and others to pursue this idea. ECNL also finalized the comprehensive *Study Report on the Sustainability of Human Rights and Accountability Watchdog NGOs in ten new member states of the European Union*. It includes an overview of the EU human rights framework, the human rights context and the state and financial sustainability of human rights and accountability watchdog NGOs in the New Member States, followed by country profiles. Further on, the Study Report provides a comprehensive analysis of the EU funding available for HRAW NGOs and its conditions. The Report also includes learning points and suggestions for advocacy for better support of HRAW NGOs. (See list of publications below.)

Transparency and accountability of public-benefit foundations in Europe

ECNL was a co-author commissioned by the European Foundation Center to the recently published study on the transparency and accountability of public-benefit foundations under the title: "*Exploring transparency and accountability- Regulation of public-benefit foundations in Europe*". The main objective of the study is to provide the foundation sector, public authorities, and other



interested parties with an overview and analysis of regulatory and sector-developed self-regulatory approaches to ensuring the transparency and accountability of public-benefit foundations in Europe. The study also assesses the need for actions to enhance transparency and accountability of public-benefit foundations.

NEW MEMBER STATES

Hungary

In 2011 ECNL was actively involved in the ongoing legislative initiatives affecting CSOs in Hungary. ECNL participated in negotiations with competent government officials, elaborated concrete proposals for the regulations and provided expert comments on several draft laws, including the Law on the Freedom of Association, and the Operation and Support of CSOs and the Governmental Decree on Management of CSOs, donations and the public benefit status. These regulations have redefined the public benefit status and the obligations of all CSOs, with which ECNL will also have to comply as of 2012.

In addition, ECNL prepared a study and proposal for the reform of the Act on public benefit organizations and the related legal regulations in Hungary under the title: "*Who deserves the public trust*". The coauthors of the study are Nilda Bullain, Adrienn Gazsi and Dániel Csanády and it was commissioned by Ökotárs Foundation.

WESTERN BALKAN COUNTRIES

Serbia

ECNL has entered the seventh and the last year of the ISC Project which seeks to create an enabling legal environment for CSOs, and which runs through January 2013. In 2011 ECNL provided technical assistance to the Ministry of State Administration in drafting the Regulation on Public Financing of Associations; continued to provide technical assistance to the Government to ensure the fair and consistent implementation of the Law on Associations, and the Law on Endowments and Foundations; and prepared and published a manual on the implementation of the Law on Volunteers. In addition, ECNL participated in several events promoting the brochure among key stakeholders.

Bosnia

ECNL has entered the second year of the USAID-funded project seeking among others to create an enabling legal environment for CSOs, which runs through August 2012. In the reporting period ECNL provided technical assistance to the Bosnian Government in preparation of the revisions in the Law on Associations and Foundations, as well as technical assistance in drafting the new Law on Associations and the Law on Foundations. In addition, ECNL provided technical assistance to the Canton of Sarajevo in the implementation of its Code of collaboration with CSOs.

Montenegro

Over the last year ECNL provided technical assistance to the Government of Montenegro in preparing a new Law on Non-Governmental Organizations, which came into force in 2011. Among others, the new Law abolished penalties for informal associations (under the prior Law registration was mandatory and an association could not engage in any

activities before it is entered into the registry); reduces the number of founders from five to three, provides a framework for the distribution of public funds to CSOs; and clarifies conditions for the dissolution of a CSO. In his expose in Parliament before the draft Law was open to the floor, the Ministry of Interior Affairs (which was responsible for the preparation of the Law) specifically acknowledged ECNL's contribution in ensuring that the Law complies with international standards and regional best practices.

Kosovo

In 2011 ECNL was contracted by the Kosovar Civil Society Foundation to prepare a publication on Best Practices on Citizen Participation in the Western Balkan countries and the EU Member States. The paper introduces the theoretical background of citizen participation, provides a short overview of the notable documents on the international and European level and presents the legal background and best practices in 7 European country (England, Austria, Hungary, Estonia, Latvia, Croatia and Montenegro).

ECNL also hosted Taulant Hoxha in Budapest for three weeks in October 2011 under an ICNL fellowship to work on a detailed analysis of the public benefit status in Kosovo and develop recommendations for its reform. The paper serves as a basis for the ongoing government-CSO working group to come up with their recommendations on this issue.

Macedonia

In 2011, ECNL continued to provide support to the Ministry of Justice working group which developed amendments to the 2007 Law on Donations and Sponsorships. ECNL and its local partner Konekt developed an analysis of the implementation of the law, facilitated stakeholders meetings to discuss the findings and help build consensus around the needs for reform. The analysis resulted in set of recommendations which are considered by the working group in the law reform process. In addition, ECNL provided expertise to local partners in developing an analysis of the tax framework for CSOs and recommendations for improvement of the provisions.

Importantly, ECNL was lead expert in an EU funded project which developed a draft Strategy of the Government for Cooperation with the Civil Sector (2012-2017) and the accompanying Action Plan. ECNL led the process of drafting the documents, facilitated working group meetings and consultations with CSOs and relevant government officials.

ECNL was also subcontracted by the Organization for Security and Co-operation in Europe (OSCE) Mission to Skopje, to support the development of participatory and transparent law-making process in the country. As part of the project, ECNL co-authored a comparative paper on the criteria and mechanisms for selection of CSOs in government bodies (cross sector working groups, councils, national boards etc) and models for improved framework and guidance to government officials and CSOs (see below).

COMMONWEALTH OF INDEPENDENT STATES (CIS REGION)

Moldova

In Moldova ECNL continued providing its technical assistance and comparative expertise to the local stakeholders, government and CSOs on the legal initiatives, e.g. comments to

regulations of the PBO Certification Commission, arranging agenda setting and policy planning events, e.g. workshops for the members of the PBO Certification Commission, planning meeting for the promotion of the Law on Volunteering, holding capacity-building activities, e.g. regional workshops on CSO accounting. The highlight of the year was the regional conference on State Financing for CSOs: New Opportunities for Moldovan CSO Development held in Chisinau. The Conference attracted over 120 government officials, CSO representatives, CSO lawyers and Moldovan and international experts from EU, Central Europe and NIS. As a result Conference recommendations were prepared and shared with local policy-makers and other stakeholders, which served as a basis for CSO advocacy related to the Action Plan of the new strategy for civil society development.

Transferring experiences between CEE and CIS

In the course of the Hungarian Presidency of the EU, under a joint project between HAND and ECNL, ECNL organized a regional workshop on Effective Government-CSO Cooperation on 22-23 June in Budapest. The objective of the workshop was to make the work of government officials dealing with CSOs more effective through sharing best practices, experiences and knowledge, as well as providing a space to network and build contacts from across the region. 15 government officials and Parliamentarians represented 10 different countries from the Western Balkans (Croatia, Montenegro, and Serbia), the Eastern Partnership (Ukraine, Georgia, Armenia and Azerbaijan) and the New Member States (Bulgaria, Estonia and Hungary). On the second day of the workshop 20 invited civil society experts and CSO representatives have also participated to share experiences from Hungary – this was the first time the government shared the draft of the new NGO law with CSO representatives.

„Thank you for great organization of the seminar. It was of quite high interest and I hope the discussion / models / materials we had on the conference will assist me a lot on upcoming reforms.”

Mr. Aram Orbelyan, Deputy Minister of Justice, Armenia

In addition, ECNL contributed to sharing CEE experiences with this region, by attending international conference in Kyiv, organized by OSCE and speaking on the topic of sources of CSO sustainability.

Supporting Social Contracting Development in the CIS Region

ECNL developed a *Handbook on Non-State Social Service Delivery Models: A Guide for policy-makers and practitioners in CIS Region* commissioned by UNDP Bratislava. The Handbook introduces the concept of social contracting of non-state actors and provides a comprehensive overview of the issues to consider when contracting out social services, as well as provides a comparative overview of social contracting practices in Ukraine, Armenia and Kazakhstan. The Handbook, currently under publication, is already requested for sharing by a number of stakeholders from the CIS region and others.

MIDDLE EAST AND NORTH AFRICA (MENA)

There is an increasing interest among CSOs and government officials of the MENA region in experiences related to the CEE transition and development of CSOs. ECNL took active part in regional events that support such experience sharing. First, ECNL took part in a regional gathering of Egyptian CSOs with organizations from the Czech Republic, the Visegrad countries and Brussels. The meeting focused on democracy assistance, human rights and civil society promotion, and was organized by the Czech Ministry of Foreign Affairs. Second, ECNL took part in the Forum on Freedom of Association in the Arab Region Organized by the Arab NGO Network for Development and ICNL, which was held in Beirut, Lebanon. ECNL helped develop and lead interactive sessions on the topics of CSO-Gov't cooperation and Accountability. Third, ECNL took part in an OSCE conference on CSO sustainability, which was held in Vilnius. The conference primarily drew participants from the MENA and CEE countries, to discuss ways how to help OSCE extend its technical support to the MENA countries.

OTHER COUNTRIES/REGIONS

Israel

ECNL attended a program of the Van Leer Jerusalem Institute in Israel to contribute to the development of new legislation concerning nonprofit organizations. ECNL provided experience sharing seminars and technical assistance to the Ministry of Justice and the Corporations Authority; representatives and leaders of third sector organizations, the Nonprofit Committee of the Bar Association; and members of the nonprofit legal group at the Van Leer Jerusalem Institute.

Mongolia

ECNL was also engaged in the civil society reform process in Mongolia. Specifically, ECNL attended a regional event and provided a tailored assistance to the Ministry of Justice and local CSOs in the process of drafting the new law on CSOs, and sharing experiences and know-how from Europe on issues related to public benefit status and public funding of CSOs.

List of publications and commentaries in 2011

- *Exploring Transparency and Accountability - Regulation of Public-benefit Foundations in Europe*. Commissioned by EFC and DAFNE.
- *Study Report on 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*. Commissioned by OSI.
- Nilda Bullain, Dr Adrienn Gazsi and Dr Dániel Csanády: *Who Deserves the Public Trust? Analysis and Concept Paper on the Reform of the PBO Law and Related Regulations*. Commissioned by the Hungarian Environmental Partnership Foundation.

- Nilda Bullain and Luben Panov: *Handbook on non-state social service delivery models - A guide to policy makers and practitioners in the CIS region*. Commissioned by UNDP Regional Bureau for Europe and CIS (awaiting publication).
- Dragan Golubovic and Katerina Hadzi-Miceva Evans: *Public Funding for CSOs - Good practices in the EU and Western Balkans*. Commissioned by EU - the Technical Assistance for Civil Society Organisations Project (TACSO).
- Katerina Hadzi-Miceva Evans: *Criteria and Procedures for Selection of Civil Society Organizations in Cross-Sector Bodies: Comparative overview and description of the situation in Macedonia*. Commissioned by the Macedonian Center for International Cooperation (MCIC) and OSCE.
- Katerina Hadzi-Miceva Evans (co-author): *Elements for Successful CSO Law Reform Initiatives, the case studies of Honduras, Iraq and Macedonia*. Commissioned by UNDP.
- Katerina Hadzi-Miceva Evans and Eszter Hartay: *Models for Cooperation and Participation on Local Level: A Comparative Overview*. Commissioned by the Macedonian Center for International Cooperation (MCIC) and EU.
- Eszter Hartay: *Citizen Participation – Best Practices in the Western Balkans and the European Union*. Research published by Kosovar Civil Society Foundation and funded by UNDEF.

Commentaries

- Comments on the Draft of the New NGO Law in Hungary, July 2011.
- Comments on the Draft governmental decree on issues related to the management of CSOs, donations and the public benefit status, December 2011.
- Commentary to the Moldova Law on Public Associations: Compliance of the Law with International Standards and Good Regulatory Practice., October 28, 2011.
- Commentary to the Moldova Law on Foundations: Compliance of the Law with International Standards and Good Regulatory Practice, November 10, 2011.
- Conclusions and recommendations of the Conference on State Financing of CSOs: New Opportunities for Moldovan CSO Development, Chişinău, Moldova, September 26-27, 2011.