



Brief Comments to the National Strategy to Promote Civil Society Development in Ukraine for 2021-2025

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INTRODUCTION

The European Center for Not-for-Profit Law Stichting (ECNL) is pleased to provide its opinion on the draft National Strategy to Promote Civil Society Development in Ukraine for 2021-2025 (hereinafter: “Draft Strategy”) at the request of the OSCE Office in Ukraine and based on our knowledge of international practices.

ECNL would like to thank for this opportunity and would like to commend the authors of the Draft Strategy for the work they have done to prepare this important policy document. We have seen that the Ukrainian government is attempting to make the process inclusive and many CSO representatives and experts have been engaged in its discussions and drafting which is in line with the good international practices.

ECNL is a leading European resource and research center, based in the Netherlands, which promotes the strengthening of a supportive policy and legal environment for civil society in Europe and beyond¹. ECNL has worked closely with governments, local governments and CSOs in Central and Eastern Europe and the Newly Independent States to support designing and developing similar documents, establishing offices for cooperation in Western Balkans, and introducing laws or codes which facilitate participation and consultation of CSOs in policy and law making processes. Among others, ECNL was part of the expert team that prepared the first and second Strategy for Government collaboration with the civil society development in [Macedonia](#). Similarly, we supported the process of developing two

¹ You can find more information about the activities of ECNL at www.ecnl.org



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Civil Society Development Strategies in Moldova ([2012-2015](#) and [2018-2020](#)). We have also carried out extensive analysis of the implementation of strategic documents in several other countries as well².

We hope that our comments will be useful and we remain committed to provide further support should it be needed in the process of developing and implementing the National Strategy to Promote Civil Society Development in Ukraine.

THEMATIC AREAS AND STRUCTURE

The development of the Strategy is a great example of collaborative work between CSOs and the government. The proposed **thematic areas** cover some of the most important issues that CSOs face in Ukraine. We would like to emphasize several key recommendations from the [2020 CSO Meter Update](#) on Ukraine that may be important to consider as they reflect some issues that are listed as problems in the Draft Strategy or are related to topics that have already been proposed in the Strategy:

- Ensure the appropriate and efficient investigation of attacks on journalists and civil activists, including those who protect the rights of women, LGBT communities, anti-corruption activists and others.
- Avoid initiating draft laws intended to worsen the legal environment for CSOs.
- Cancel administrative responsibility for violating the non-existent procedure for organising and holding peaceful assemblies (Article 185-1 of the Code of Administrative Offences of Ukraine).
- Adopt legislation that would regulate when and how law enforcement agencies may resort to force during peaceful assemblies and oblige the representatives of law enforcement agencies participating in peaceful assemblies to have visible individual identification signs.

In addition, a topic that has been increasingly affecting CSOs in other countries but also in Ukraine has been the use of anti-money laundering and counter-terrorism financing legislation to limit civic freedoms. One of the key recommendations of the 2019 CSO Meter Report on Ukraine has been to “*raise awareness among CSOs on the regulation on money laundering and terrorist financing and how it may affect them*”. This is closely related to one of the activities already suggested by the Strategy – to promote better banking services for CSOs (as very often banks engage in the so-called “bank de-risking” and limit the services they offer to CSOs because they consider them higher risk and not so lucrative clients).

The structure of the Strategy contains some of the key sections that such documents typically have, including:

- General overview and analysis of trends;
- International commitments and standards;

² See for example

https://ecnl.org/sites/default/files/files/Paper_on_cooperation_strategies_ENG_March-22-2016.pdf



- The objective of the Strategy;
- Description of the strategic areas;
- Financial support for the implementation of the Strategy;
- Implementation mechanisms;
- Monitoring and assessment of the Strategy

The Strategy highlights several important principles such as *respect for civil society autonomy* (self-government); and *cooperation of public authorities and civil society organizations* (the principle of “no decisions for civil society without civil society”). As the principles constitute the backbone of cooperation we suggest that the Draft Strategy gives more prominent role to this part. In many countries the strategic documents on cooperation with CSOs include a separate section listing the principles of cooperation between CSOs and the government (for example, in the 2012–2015 Strategy to Support the Development of Civil Society Organizations in the Republic of Bulgaria there is a separate section on principles). The experience of Estonia demonstrated the crucial importance of the principles: since the adoption of the Estonian Civil Society Development Concept (EKAK) in 2002, the activities listed in it have changed several times based on the adopted action plans. However, the existence of a special section on principles has made it “*possible to refer to this document whenever there are problems with public and nonprofit sectors’ cooperation*”³. We believe that this approach would also be helpful in the case of Ukraine and we suggest to consider adding a separate section **on the principles underlying the Strategy**. ECNL has prepared a [short overview](#) listing the various principles that countries have included in their strategic document. It may give ideas for other important principles that may be considered in the case of Ukraine. Among other, it includes other important principles such as equal treatment, mutual respect and civic engagement.

MONITORING AND IMPLEMENTATION

We commend the drafters of the Strategy for including separate sections in the Strategy on guaranteeing financial support for the Strategy implementation and for establishing mechanism for implementation and monitoring. Understanding that the implementation of any strategy requires financial resources is a key to success.

Establishment of a Coordinating Council

We welcome the idea to establish a special body responsible for the implementation of the Strategy – Coordinating Council for the Promotion of Civil Society Development. As far as we understand it would be composed solely of representatives of civil society organizations. It is a great practice to include civil society in the implementation of the Strategy. However, it would be more helpful to create **the council as a joint CSO–government body** that provides the possibility for

³ [https://heakodanik.ee/sites/default/files/files/EKAK_brussels%20\(1\).pdf](https://heakodanik.ee/sites/default/files/files/EKAK_brussels%20(1).pdf)



dialogue between the two parties on how the Strategy is implemented. One of the most important objectives of such a joint body is to create closer links between CSOs and the government bodies and to establish practical cooperation between them. In Estonia this was achieved through the Joint Committee for Implementation of the Estonian Strategy composed of equal number of high-level state officials and CSOs and chaired by the Regional Minister. The representation of state bodies in the Coordinating Council is also important as they will be primarily responsible for the implementation of the Strategy.

We believe creating an institutionalized mechanism for monitoring the Strategy provides more guarantees for its implementation (as opposed to just organizing coordination meetings). In addition, in order to make sure that the body is effective, it may be good to **regulate the minimum number of Council meetings per year** (e.g. at least twice per year).

In line with good European practices such a **coordinating body should have its tasks clearly listed**. Its primary objective is to coordinate the activities of all state bodies that have obligations related to the strategy implementation. Other tasks may include:

- Review and comment on the annual action plans for Strategy implementation before their adoption (that under the Draft Strategy are to be developed by the Secretariat of the Cabinet of Ministers and approved by the Cabinet of Ministers);
- Monitor the implementation of the specific tasks under the annual plans;
- Develop/Approve the annual report on the Strategy implementation;
- Promote the Strategy;
- Organize public discussions on topics related to the Strategy implementation, etc.

In addition, we suggest that the **relevant ministries are required to submit annual reports to the Coordinating Council/Council of Ministers** that will be the basis of preparing a consolidated report on the implementation of the overall Strategy.

Plans for Strategy Implementation

It is in line with the best practices that the Strategy provides for the adoption of annual action plans. We believe the adoption of annual action plans is better than having bi-annual plans as it provides greater flexibility but also gives the possibility to more closely relate the proposed action plans with the planned budget funds (in the state budget) for their implementation.

However, it is also important to **have an overall action plan, including** all the activities, the responsible state agencies, the expected timelines for the completion, the necessary resources and the performance indicators. Such general action plans are usually adopted together with or shortly after the adoption of the



respective civil society strategy. Therefore, one possibility is to regulate the deadline for the development of the overall action plan after the adoption of the Strategy e.g. 3 or 6 months after its adoption. This has been the approach undertaken in the case of the Bulgarian CSO Strategy.

Monitoring and Evaluation of the Strategy

The Draft Strategy already provides for some very good ways to monitor its implementation and equally important – to keep CSOs and the general public informed on the progress with the implementation. These include:

- National and regional civil society forums are held annually to report to the public on progress with the Strategy and discuss topical issues in the area concerned. This is a very good way to increase the visibility of the whole process among politicians and society. There has been a similar practice in the case of Moldova where Parliament organized an annual conference with CSOs and related state institutions to discuss the Strategy implementation. In Estonia, the Parliament organized a conference every 2 years where both the government and CSOs presented their independent reports on the Strategy implementation and the state of cooperation.
- Executive authorities keep the public informed about Strategy implementation on official websites, social media, etc.
- Information on progress with the Strategy, activities of the Coordinating Council for the Promotion of Civil Society Development is also posted by the Secretariat of the Cabinet of Ministers on the online platform for collaboration of executive authorities with citizens and civil society institutions.

In addition to the monitoring mechanisms listed above, one idea may be to provide for **an independent evaluation of the Strategy** implementation. Such evaluation will help assess to what extent the Strategy has achieved its objectives and help design the future government strategies for civil society development. For example, the Strategy may provide for a mid-term and then a final evaluation of its implementation by independent expert(s). Such an assessment of the 2012–2015 CSO Strategy has been an important element of the process of adopting the new 2018–2020 Civil Society Development Strategy in Moldova.