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# ADVANCING THE REFORM AGENDA WITHIN THE EU ASSOCIATION AGREEMENTS: COMPARATIVE ANALYSIS OF MOLDOVA, GEORGIA, AND UKRAINE ON THE ROLE OF CIVIL SOCIETY

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*Despite the vast amount of research on the Eastern Partnership, little is known on the role of civil society in promoting the Association Agendas with Moldova, Georgia, and Ukraine. The present article elucidates more comprehensively this aspect by highlighting the main challenges and puts forward recommendations for improving civil society participation in advancing reforms in these countries. The research on this topic is important in order to present a comparative perspective of the progress towards European integration among the most active pro-European states in the Eastern Partnership. The methodology of the study consists in analytical research and empirical investigations involving quantitative and qualitative tools: gathering of data, analysis of documents, normative and legislative in-depth analysis, and reports.*

## Introduction

The Association Agreements with Moldova, Georgia, and Ukraine seek to enable the EU's policy transfer and regulatory framework at the Eastern borders. These three countries have many similarities in their current stage of contractual relations with the EU as well as their aspirations for proximity. The reforms reflected in the Association Agendas (bilateral roadmaps on the implementation of the Association Agreements) seek to foster normative and political convergence around the fundamental principles of the European Union.

In the frame of the European integration process, civil society organisations have the opportunity to advance reforms that would

enhance good governance, transparency, rule of law, non-discrimination, and general welfare. The EU support for creation of a strong and resilient civil society in these countries helps to make sure that the changes – reforms – do not come only from outside, but also are widely perceived from within. Some of the roles allocated to the civil society in Moldova, Georgia, and Ukraine relate to outreaching EU policies to a broader audience, communicating and educating people in line with the EU principles and values, promoting democratic participation, and improving transparency and accountability.

However, a number of limitations are challenging full achievement of these goals. The most important is the fact that decision



***The EU support for creation of a strong and resilient civil society in these countries helps to make sure that the changes – reforms – do not come only from outside, but also are widely perceived from within***

makers in these countries do not fully perceive the added value of civil society contribution in conducting reforms. Other challenges relate to limited capacities for public policy analysis and advocacy, limited capacities on the side of the civil society in specific areas envisaged by the Association Agreements, and dependence of the civil society on external funding.

### **Current Context of EU Relations with Moldova, Georgia, and Ukraine**

In 2004, the EU developed a complex initiative – the European Neighbourhood Policy (ENP) – for governing the relations with 16 of the Union's closest neighbours. It included Algeria, Morocco, Egypt, Israel, Jordan, Lebanon, Libya, Palestine, Syria, Tunisia along the South borders and Armenia, Azerbaijan, Belarus, Georgia, Moldova, Ukraine on the East side. For Russia, it was allocated a special status instead of the ENP participation. Its objective was to avoid normative and ideological discrepancies between the EU and its neighbours. The founding values of this policy consist of democracy, rule of law, and respect of human rights.<sup>1</sup>

At the same time, in 2009 the EU initiated within the ENP a more specific geographical

policy that sought to govern the relations with the post-Soviet countries, notably Armenia, Azerbaijan, Belarus, Georgia, Moldova, and Ukraine. The Eastern Partnership as part of the ENP distinguished these countries from other EU neighbours by outlining the strategic importance of enhancing the stability, development, and democratic institutions.

The Eastern Partnership laid the foundation for Association Agreements at the Eastern borders of the EU. These are treaties between the EU and non-EU states that introduce contractual relations between the sides and aim to improve cooperation in the areas of politics, trade, culture, security, and others. The legal foundation of the EU's Association Agreements is laid in Article 217 of the Treaty on the Functioning of the European Union, which says that the EU may conclude with one or more third countries or international organisations agreements establishing an association involving reciprocal rights, obligations, and common actions.<sup>2</sup>

The Association Agreements put forward a number of fundamental reforms that encompass various sectors. These documents encode such priorities as constitutional reform, judicial reform, election reform, combating corruption, public administration reform, deregulation in the context of small and medium enterprises, taxation, reform of the energy sector, public procurement, external auditing, etc.

In order to support the realisation of such reforms, the EU allocates funds to the third parties, and based on the principle 'more for more'<sup>3</sup>, incentivises those partners

<sup>1</sup> *European Neighborhood Policy: What Is It?*, European Commission, [[https://ec.europa.eu/neighbourhood-enlargement/neighbourhood/overview\\_en](https://ec.europa.eu/neighbourhood-enlargement/neighbourhood/overview_en) access: 23 August 2018].

<sup>2</sup> *Treaty on the Functioning of the European Union*, EUR-Lex, [<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A12012E%2FTXT> access 24 August 2018].

<sup>3</sup> *European Neighbourhood Policy (ENP)*, European Union External Action, [[https://eeas.europa.eu/headquarters/headquarters-homepage/330/european-neighbourhood-policy-enp\\_en](https://eeas.europa.eu/headquarters/headquarters-homepage/330/european-neighbourhood-policy-enp_en) access 21 August 2018].

that display willingness to advance their cooperation and progress on institutional reforms. This principle was unveiled as part of the revised ENP and strengthens the EU's individual approach towards each country based on the fulfilment of commitments and agreements.

The implementation of the Association Agreements is reflected in bilateral Action Plans, also called Association Agendas, which set the schedule for political and economic reforms within specific timeframes. The implementation is monitored and evaluated by the EU, designated entities of the partner countries, as well as by the national and international civil society.

### Similarities among the Three Countries

Moldova, Georgia, and Ukraine signed their Association Agreements with the EU on 27 June 2014.<sup>4</sup> Out of the six countries of the Eastern Partnership, these ones are the most similar among themselves in terms of democratic indicators (Freedom House assessed these countries in the World Index for 2018 as 'partly free'<sup>5</sup>). These are the most pro-European-oriented states from the Eastern Partnership. At the symbolic level, the EU flag is often displayed alongside the national flags of these countries formally reflecting the commitment to join the EU.

In addition, their association looks somewhat similar. Georgia began the negotiations on the Association Agreement in 2010 and on the Deep and Comprehensive

Free Trade Area (DCFTA) in 2012.<sup>6</sup> As part of this process, the EU and Georgia started the negotiations on visa liberalisation for Georgian citizens wishing to travel to the EU. Moldova started the negotiations on the Association Agreement and DCFTA a bit earlier. Ukraine started the negotiations on the Association Agreement in 2007 and DCFTA in 2008.<sup>7</sup>

Moldova, Georgia, and Ukraine are part of the so-called 'Visa Liberalisation Dialogues'. It comprises negotiations on visa-free travel based on fulfilment of requirements structured in four blocks: document security, including biometrics; border management, migration, and asylum; public order and security; and external relations and fundamental rights within the Eastern Partnership. Moldova got visa-free travel to the Schengen area already starting from 2014. In 2017, visa-free access was granted for Ukrainian and Georgian citizens.

In addition to the similarities that these countries have in their relation to the EU, the socio-political challenges are also somewhat similar, notably in the following way:

- The trust of citizens in representative institutions, political parties, politicians, government is low. The public is generally cynical and distrusting towards governmental entities.
- The citizens in these countries do not fully understand the specifics of contractual relations between their country and the EU. The public opinion tends to see the role of the EU as a 'regime regulator' that

<sup>4</sup> *Memo on the EU's Association Agreements with Georgia, the Republic of Moldova and Ukraine*, European Commission, [http://europa.eu/rapid/press-release\_MEMO-14-430\_en.htm access 23 August 2018].

<sup>5</sup> *Freedom in the World 2018*, Freedom House, [https://freedomhouse.org/report/freedom-world/freedom-world-2018 access 03 September 2018].

<sup>6</sup> *Georgia and the EU*, Delegation of the European Union to Georgia, [https://eeas.europa.eu/delegations/georgia/49070/georgia-and-eu\_en access 23 August 2018].

<sup>7</sup> *Ukraine and the EU*, Delegation of the European Union to Ukraine, [https://eeas.europa.eu/delegations/ukraine/1937/ukraine-and-eu\_en access 23 August 2018].

should fight against corruption, fraud, poverty, etc.

- Disaffection is a broader phenomenon in all three countries and sometimes determines alienation. The belief that the system is capable of solving the basic problems of the country and citizens is very low. The census data (public opinion barometers) in all three countries show a degree of dissatisfaction with democracy, while some people often seek authoritarian alternatives.
- The public in all three countries is expecting 'quick fixes' and fast results from the reforms and European integration process. At the same time, the general public is less interested in specific sector reforms that the Association Agreements put forward, and respectively, the input in the consultation processes and public debates in some sectors is modest.

## The Role of Civil Society in Advancing Reforms

The idea of involving civil society in promoting reforms had a central role in Western models of transitions for the post-Soviet societies. The principle of local ownership is one of the main EU approaches towards promoting changes. Despite the fact that this idea is not uniformly realised, local ownership is perceived beyond the ownership of the government and comprises the ownership displayed by the population

more generally, including civil society and the intended beneficiaries of reform.

The implementation of the Association Agenda endorsed a multi-level system of dialogue and cooperation. Among the high-level political and executive cooperation, there is a channel for dialogue with the civil society called the Civil Society Platform. Besides the monitoring functions, it is entitled to provide recommendations to the Association Council, a body created at the executive level as part of the implementation of the Association Agenda empowered to take decisions in matters of association.

Previously, another quite similar mechanism called the Eastern Partnership Civil Society Forum was created as part of the Eastern Partnership. The Civil Society Forum serves as a platform for meetings, mutual information, and exchange of views between the Eastern Partnership countries with the EU.

In the frame of the project "Strengthening Non-state Actors' Capacities to Promote Reform and Increase Public Accountability" launched in January 2013 within the Eastern Neighbourhood Civil Society Facility, CSO mapping studies were prepared with the goal to provide an in-depth analysis of the civil society landscape in each country of the Eastern Partnership.<sup>8</sup> The analysis of these mapping studies revealed a number of common trends of the civil society in Moldova<sup>9</sup>, Georgia<sup>10</sup>, and Ukraine<sup>11</sup>:

<sup>8</sup> *CS Mappings in the EaP Partner Countries*, Eastern Partnership Civil Society Facility, [<http://eapcivilsociety.eu/what-we-do/cs-mappings-in-the-eap-partner-countries> access 20 August 2018].

<sup>9</sup> *Mapping Study of Civil Society Organisations from the Republic of Moldova: Development, Sustainability and Participation in Policy Dialogue*, Civil Society Dialogue for Progress, December 2014, [[https://crjm.org/wp-content/uploads/2014/12/civil\\_society\\_mapping\\_csdp.pdf](https://crjm.org/wp-content/uploads/2014/12/civil_society_mapping_csdp.pdf) access 20 August 2018].

<sup>10</sup> *Mapping Study of Civil Society Organisations' Engagement in Policy Dialogue in Georgia*, Civil Society Dialogue for Progress, [<https://ids.euforneighbourhood.eu/download/mapping-study-of-civil-society-organisations-engagement-in-policy-dialogue-in-georgia/> access 20 August 2018].

<sup>11</sup> *Mapping Study of the CSO Engagement in Policy Formulation and Monitoring of Policy Implementation in Ukraine*, Civil Society Dialogue for Progress, September 2017, [[http://eapcivilsociety.eu/wp-content/uploads/2017/09/mapping\\_ukraine\\_1-3\\_0.pdf](http://eapcivilsociety.eu/wp-content/uploads/2017/09/mapping_ukraine_1-3_0.pdf) access 23 August 2018].

- The activity areas of NGOs in these countries comprise common priorities such as democratic participation, social services, human rights, healthcare, education, youth, and culture.
- The primary source of NGO funding in these countries represents international organisations and foreign donors.
- The civil society organisations of all three countries participate in the EU-funded programmes.
- The reform dialogue between the civil society and the governments of Moldova, Georgia, and Ukraine was institutionalised as part of the European integration process at the initiative of the EU.

Speaking about the role that civil society can play in order to advance the reform agenda in these countries, the following main directions are of relevance:

- Promote the local ownership of the reforms;
- Inform the general public and the EU on the issues that are taking place in the process of reform implementation;
- Monitor the implementation process and prepare alternative reports;
- Raise public awareness on the reform provisions;
- Improve the transparency of reforms and decision-making processes;
- Support the idea that democracy is the most suitable regime and that the political institutions can become more accountable, transparent, and responsive to the public will and in particular to the public good.

The EU developed a number of instruments to support further development and existence of nongovernmental organisations. The most notable is the Civil Society Facility for Eastern and Southern neighbours. The nongovernmental organisations from these countries can receive funding through the

Development Cooperation Instrument for Democracy and Human Rights and more recently, through the National Endowment for Democracy.



***Decision makers do not fully perceive the added value of civil society involvement in reforms***

## **Main Challenges and Recommendations**

### **1. Decision makers do not fully perceive the added value of civil society involvement in reforms**

The specifics of institutional and political context in these countries influence negatively the perception of decision makers and civil servants of the role of civil society. Due to the fact that they are 'sensitive to criticism', the cooperation between public authorities and civil society is problematic.

In this sense:

*Governments should*

- Recognise civil society as a partner in the implementation of reforms and seek input on various issues;
- Make sure that the relevant legislative framework on public consultation of public policies is strictly respected by the relevant public entities;
- Publish the reports on public consultations and adjust the legislation in order to make stricter the requirements for transparency in the decision-making process;
- Provide capacity-building for civil servants dealing with information of public character and relations with civil society;



***The sector expertise of NGOs is mostly limited to anti-corruption, human rights, and monitoring the effective use of resources allocated for national and regional initiatives.***

- Develop institutional mechanisms/platforms for cooperation between public authorities and civil society organisations;
- Use the suggestions and recommendations of civil society in the reform process;
- Create a joint monitoring mechanism on the implementation of reforms that would also serve as a platform for cross-sector dialogue between government and civil society.

#### *The EU should*

- Continue advocating for inclusiveness of civil society and public consultations in the decision-making process;
- Ask the governments of these countries to be committed to transparency in the decision-making process;
- Support with know-how the formation of mechanisms of cooperation between authorities in these countries and civil society organisations.

#### *Civil society should*

- Strengthen their capacities to monitor the activity of public entities in initiating and approving policies;
- Flag the cases when the legislation on transparency is not respected;
- Launch initiatives for monitoring wide areas of reforms with cross-sector actions and policies;
- Seek feedback on unaccepted recommendations in order to make them more suitable in the future;

- Enhance the awareness of citizens on importance of participation in the decision-making process at the local and central level;
- Facilitate the flow of information on the reforms that the governments in these states should pursue, by hosting informational events with students, various interest groups, and politicians.

## **2. Unpreparedness of civil society for actively advancing cross-sector reforms**

### *A. Limited capacities of public policy analysis and advocacy*

The CSO mapping studies previously mentioned that NGOs in all three countries require capacity-building for their efficient involvement in policy dialogue. In Moldova, Georgia, and Ukraine, the questionnaires with the civil society organisations outlined the need to acquire the necessary skills in problem analysis, public policy evaluation, preparation of and participation in public campaigns, and monitoring of policy implementation.

In addition, the common limitations in these countries include:

- The policy advice that comes from NGOs most often represents a set of superficial recommendations;
- They do not contain an analysis of the administrative feasibility, necessary resources, and risks that may result from the proceedings with the recommended decisions.
- The suggestions proposed quite often are presented as the 'only correct solution'.
- The civil society in these countries struggles with problems with infrastructure and technical equipment, which directly depends on the financial resources available.

### *B. Limited capacities of specific reforms envisaged by the Association Agreements*

The sector expertise of NGOs is mostly limited to anti-corruption, human rights, and monitoring the effective use of resources allocated for national and regional initiatives. These directions were confirmed as part of the CSO mapping studies in these countries. The Association Agendas contain a much broader spectre of topics that should be reformed such as constitutional reform, judicial reform, election reform, combating corruption, public administration reform, deregulation in the context of small and medium enterprises, taxation, reform of the energy sector, public procurement, external auditing, etc.

The involvement and responsibility allocated to civil society within the Association Agreements require capacities and resources for efficient involvement. In this sense, limited capacities (expertise on some very specific matters of the Association Agreements, structural and financial aspects) within the civil society of these countries impede enhanced cooperation and involvement of these entities. Due to the fact that the Association Agreements represent complex cross-sector programmes, the degree of understanding issues related to reform priorities remains limited among the vast majority of nongovernmental organisations.

In this sense:

#### *Governments should*

- Organise trainings for civil society on public policy in areas which are less known;
- Develop institutional mechanisms for cooperation with civil society at different levels.

#### *The EU should*

- Envisage that the technical assistance for the reforms' implementation to public

institutions should also address the civil society capacities in that sector;

- Provide civil society training programmes on topics such as advocacy, problem analysis, and policy implementation monitoring;
- Provide specific sector training for improving the capacities in the areas of reforms in order to enhance the knowledge of the EU standards and regulations for various sectors.

#### *Civil society should*

- Initiate platforms for cross-sector collaboration in the context of the Association Agenda's reforms;
- Improve the exchange of information and knowledge on different subjects related to reforms;
- Build capacities simultaneously for the public administration and civil society organisations on the reform agenda.

### **3. Financial dependence of civil society**

The CSO mapping studies of these countries outlined a high dependency of the civil society on foreign financial support. The increase of the associative sector took place specifically in the areas that get donor coverage. The phenomenon of 'grant hunting' became common in these countries and led to small gatherings of people implementing activities that are streamed by the donors' organisations.

The main consequence of grant hunting is the fact that the associations are not promoting genuinely the interests of a specific society's groups, but organise their work based on an orchestrated agenda. This fact resulted in involvement of many nongovernmental organisations with limited knowledge, experience, and capacities to provide recommendations to the implementation of the reforms in the context of the Association Agreements.

In this sense:

*Governments should*

- Make sure to put in place financial mechanisms for NGOs, such as corporate social responsibility legislation;
- Allocate funding for nongovernmental organisations' programmes.

*The EU should*

- Allocate grant schemes to civil society that cover a broad range of sectors;
- Initiate small funding programmes for civil society with simplified application procedures.

*Civil society should*

- Strengthen fundraising capacities;
- Diversify the financial streams, notably from public administration funds, donations, negotiate partnerships with private sectors to achieve corporate social responsibility.

**4. Narrow view on civil society participation in reform advancing**

Although the cooperation with civil society is expressly stated in the Association Agreements of all three countries, the typology of entities that would be considered as civil society remains mostly limited to registered nongovernmental organisations. This indeed narrows the spectre of groups that can be involved in the process of advancing reforms and policy dialogue.

It is important that the participation of civil society representatives in advancing reform agenda in these countries is perceived in the broadest sense and scope (universities,

institutes, media, trade unions, business associations, professional and expert associations, etc.).

In this sense:

*Governments should*

- Involve in consultations on reforms civil society organisations that comprise universities, media, trade unions, business associations, professional and expert associations.

*The EU should*

- Expand the participation of groups that represent civil society in the Eastern Partnership Civil Society Forum and Civil Society Platform;
- Tailor the working groups' profile within these platforms according to the reform priorities in the frame of the Association Agreements.

*Civil society should*

- Include various civil society actors when forming the platforms for dialogue with governmental entities on reforms.

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